

SEVENTY-SIXTH DAY
(Friday, May 27, 1983)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

The Reverend Joseph Phelps, Highland Park Baptist Church, Austin, offered the invocation as follows:

Our Father, the men of this Senate face another day of public choice. A plethora of voices clamor for their attention. They are bombarded by requests for money, pulled by demands for new laws and policies, overwhelmed with options and opinions. Father, in the midst of these deafening voices, may they hear Another Voice - a voice that calls out to us all. It speaks not in terms of "me," but in terms of "us"; not in terms of "my", but in terms of "our"; not in terms of "what is expedient", but in terms of "what is fair"; not in terms of "what is politically right", but simply in terms of "what is right".

That Voice is still and small; its quiet message easily lost. In these moments of meditation may we be reminded of the sound of Your Voice and renewed for the tasks that this day brings. Through Christ our Lord, Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider **H.B. 52** and **H.B. 299** today.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.J.R. 40, Proposing a constitutional amendment to authorize the issuance of an additional \$300 million of Texas Water Development Bonds. (With amendments)

The House has concurred in Senate amendments to **H.B. 965** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1054** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1114** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 784** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 846** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1125** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 232** by a non-record vote.

H.C.R. 267, Honoring Arthur M. Gaines, Jr.

H.C.R. 268, Directing the Department of Water Resources and the Air Control Board to give careful consideration before permitting hazardous waste disposal in flood prone areas.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Jones submitted the following report for the Committee Finance:

H.B. 940 (Amended)

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

H.B. 2109

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 908

H.B. 594

H.B. 2084

H.B. 1015

H.B. 490 (Amended)

H.B. 431 (Amended)

C.S.H.B. 1733 (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

S.R. 672

C.S.H.B. 2276 (Read first time)

C.S.H.B. 2227 (Read first time)

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

H.B. 2237

H.B. 859

H.B. 2081

C.S.H.B. 337 (Read first time)

H.B. 2259

H.B. 2181

H.B. 326

H.B. 1651 (Amended)
H.B. 2258
H.B. 1644
H.B. 1119
H.B. 2244
C.S.S.B. 1153 (Read first time)
C.S.S.B. 271 (Read first time)
H.B. 1080
H.B. 52
C.S.H.B. 281 (Read first time)
H.B. 1631
H.B. 299

Senator Farabee submitted the following report for the Committee on State Affairs:

H.J.R. 65
H.B. 1625
S.J.R. 25
H.B. 441
H.B. 812
H.B. 1075
H.B. 1702
H.C.R. 22
H.B. 1745
H.B. 725
H.B. 2157
H.B. 1289
H.B. 2363
C.S.H.B. 2233 (Read first time)
H.C.R. 170
H.B. 2376

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 2435
H.B. 2432
H.B. 1183
H.B. 2385
H.B. 2412
H.B. 2433
H.B. 310
H.B. 2409
H.B. 2411
H.B. 2294
H.B. 2404
H.B. 2406
H.B. 2407
H.B. 2441
H.B. 2447
H.B. 2350
H.B. 1142
H.B. 2327
H.B. 1481
H.B. 2452

H.B. 2295
H.B. 2354
H.B. 2392
H.B. 2388
H.B. 2337
H.B. 2338
H.B. 2439
H.B. 2390
H.B. 1925
H.B. 2399
H.B. 2449
H.B. 1018 (Amended)
H.B. 1157
H.B. 2445
H.B. 2394
H.B. 434
H.B. 2229

HOUSE BILL 2109 ORDERED NOT PRINTED

On motion of Senator Brooks and by unanimous consent, H.B. 2109 was ordered not printed.

BILLS ORDERED NOT PRINTED

On motion of Senator Traeger and by unanimous consent, the following bills were ordered not printed:

H.B. 908	H.B. 2441
H.B. 594	H.B. 2447
H.B. 2435	H.B. 2350
H.B. 2432	H.B. 1142
H.B. 1183	H.B. 2327
H.B. 2385	H.B. 1481
H.B. 2412	H.B. 2452
H.B. 2433	H.B. 2295
H.B. 310	H.B. 2354
H.B. 2409	H.B. 2392
H.B. 2411	H.B. 2388
H.B. 2294	H.B. 2337
H.B. 2404	H.B. 2338
H.B. 2406	H.B. 2439
H.B. 2407	H.B. 2390
H.B. 1925	H.B. 2399
H.B. 2449	

SENATE RESOLUTION 672 ORDERED NOT PRINTED

On motion of Senator Santiesteban and by unanimous consent, S.R. 672 was ordered not printed.

BILLS ORDERED NOT PRINTED

On motion of Senator Mauzy and by unanimous consent, the following bills were ordered not printed:

H.B. 859
H.B. 2081
H.B. 2259

H.B. 2181
H.B. 326
H.B. 2258
H.B. 1644
H.B. 1119
H.B. 2244
H.B. 1080
H.B. 299

BILLS AND RESOLUTIONS ORDERED NOT PRINTED

On motion of Senator Farabee and by unanimous consent, the following bills and resolutions were ordered not printed:

H.B. 1625
H.B. 812
H.B. 1075
H.B. 1702
H.C.R. 22
H.B. 725
H.B. 2157
H.B. 1289
H.B. 2363
H.C.R. 170
H.B. 2376

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 35	H.B. 741
H.C.R. 100	H.B. 79
H.C.R. 141	H.B. 100
H.C.R. 159	H.B. 101
H.C.R. 173	H.B. 149
H.C.R. 174	H.B. 197
H.C.R. 190	H.B. 229
H.C.R. 197	H.B. 359
H.C.R. 220	H.B. 399
H.C.R. 226	H.B. 423
H.C.R. 231	H.B. 430
H.C.R. 237	H.B. 464
H.C.R. 239	H.B. 501
H.C.R. 244	H.B. 555
H.C.R. 249	H.B. 644
H.C.R. 252	H.B. 651
H.C.R. 257	H.B. 669
H.J.R. 4	H.B. 706
H.J.R. 22	H.B. 713
H.J.R. 30	H.B. 723
H.J.R. 73	H.B. 729
H.J.R. 105	H.B. 747
S.B. 232	

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 642**

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
May 25, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 642** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LYON
PARMER
DOGETT
EDWARDS
SHARP

On the part of the Senate

WILLIS
BLANTON
RUSSELL
WORD
L. HALL

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE BILL 24 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 24** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Edwards

Substitute the following for **S.B. 24**:

**A BILL TO BE ENTITLED
AN ACT**

relating to a driver's license issued for essential need; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 23A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23A. (a) Any person whose license has been suspended for causes other than physical or mental disability or impairment may file with the judge of the county court or district court having jurisdiction within the county of his residence, or with the judge of the county court or district court having jurisdiction within the county where an offense occurred for which his license was suspended, a verified petition setting forth in detail an essential need for operating a motor vehicle [~~in the performance of his occupation or trade~~]. The hearing on the petition may be ex parte in nature, except as provided by Subsection (e) of this section.

(b) "Essential need" as used in this section means a need for the use of a motor vehicle:

(1) in the performance of an occupation or trade or for transportation to and from the place where a person practices his occupation or trade;

(2) for transportation to and from an educational facility in which the person is enrolled; or

(3) in the performance of essential household duties.

(c) In determining whether essential need exists, the judge shall consider the driving record of the petitioner and any evidence presented by a person who attends the hearing on the petition under Subsection (e) of this section.

(d) If the petitioner's license was suspended following a conviction for an offense under Article 67011-1 or 67011-2, Revised Statutes, or an offense under Section 19.05(a)(2) or 19.07, Penal Code, the clerk of the court shall send by certified mail a copy of the verified petition and notice of the hearing to the attorney representing the state.

(e) A person receiving a copy of a petition under Subsection (d) of this section may attend the hearing on the petition and may present evidence at the hearing against granting the petition.

(f) The judge hearing the petition shall enter an order either finding that no essential need exists for the operation of a motor vehicle [in the performance of the occupation or trade of the petitioner] or enter an order finding an essential need for operating a motor vehicle [in the performance of the occupation or trade of the petitioner]. In the event the judge enters the order finding an essential need [as set out herein], he shall also, as part of the order [such finding], determine the actual need of the petitioner in operating a motor vehicle. The order [in his occupation or trade and shall restrict the use of the motor vehicle to the petitioner's actual occupation or trade and the right to drive to and from the place of employment of the petitioner, and] shall require the petitioner to give proof of a valid policy of automobile liability insurance in accordance with the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) [provisions of the Texas Safety Responsibility Law, Article 6701h, Vernon's Annotated Texas Statutes]. The order [Such restrictions] shall be definite as to hours of the day, days of the week, specific reasons for travel, [type of occupation] and areas or routes of travel to be permitted, except that the petitioner shall not be allowed to operate a motor vehicle more than four (4) [ten (10)] hours in any twenty-four (24) consecutive hours. On a proper showing of necessity, however, the court may waive the four-hour [10-hour] restriction and allow the petitioner to operate a motor vehicle for any period determined by the court that does not exceed twelve (12) hours in any twenty-four (24) consecutive hours. An order [Unless further extended at the discretion of the court, orders] entered by the [such] court shall extend for the [a] period of [twelve (12) months or less from the date of] the original suspension. A certified copy of the petition and the court order setting out the judge's finding and the restrictions shall be forwarded to the Department.

(g) [(f)] Upon receipt of the court order set out in Subsection (f) of this section [(a) above] and after compliance with the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) [provisions of the Texas Safety Responsibility Law, Article 6701h, Vernon's Texas Civil Statutes], the Department shall issue to the petitioner an occupational license, referring [showing] on its face to [the restrictions set out in] the order of the court.

[(c) Any person who violates the restrictions on his occupational license shall be guilty of a misdemeanor and upon conviction thereof shall be punished in the same manner as one convicted of driving a motor vehicle while license is suspended, and such occupational license shall be automatically cancelled.]

SECTION 2. Section 25(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Whenever any person is convicted of any offense for which this Act makes automatic the suspension of the operator's, commercial operator's, or chauffeur's license of such person, the court in which the [such] conviction is had shall require the surrender to it of all operators', commercial operators', and chauffeurs' licenses

then held by the person ~~[so]~~ convicted and the clerk of the ~~[said]~~ court shall ~~[thereupon]~~ forward the licenses ~~[same]~~ together with a record of the ~~[such]~~ conviction. The court may enter an order restricting the operation of a motor vehicle for essential need ~~[to the person's occupation or to participation in an alcoholic or drug treatment, rehabilitation, or educational program]~~, provided the person has filed a verified petition with the court setting forth in detail an essential need for operating a motor vehicle, has given notice of the hearing and a copy of the verified petition to the person provided under Subsection (d), Section 23A, of this Act, and provided the person gives proof of a valid policy of automobile liability insurance in accordance with the provisions of the Texas Motor Vehicle Safety-Responsibility Act~~[- as amended]~~ (Article 6701h, Vernon's Texas Civil Statutes). "Essential need" as used in this section has the meaning assigned to it by Section 23A(b) of this Act. The order shall state restrictions as to hours of the day, days of the week, specific reasons for travel ~~[type of occupation or program]~~, and areas or routes of travel to be permitted, except that the person convicted may not be allowed to operate a motor vehicle more than four (4) ~~[ten (10)]~~ hours in any consecutive twenty-four (24) hours, providing, on proper showing of necessity, the court may waive the four-hour ~~[ten (10) hour]~~ restriction and allow the person to operate a motor vehicle for any period determined by the court that does not exceed twelve (12) hours in any consecutive twenty-four (24) hours. The order shall be effective for ~~[a period to be determined by the judge and may be extended at the discretion of the judge, provided that if the order is granted for longer than a twelve (12) month period, the person convicted must give proof to the Department of Public Safety of a valid policy of automobile liability insurance in accordance with the provisions of the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes). But in no event may the order remain in effect beyond]~~ the period for which the convicted person's license has been suspended. A certified copy of the order shall be given to the person convicted and shall be forwarded to the Department together with the person's licenses and the record of his conviction. Upon receipt of the order, the Department shall issue a license referring on ~~[showing upon]~~ its face to the restrictions and expiration date set out in the order. The person convicted may use the order of the court as a restricted license for a period of fourteen (14) days following the date of the order. ~~[Any person who violates the restrictions of the order of the court or on the license issued under this section is guilty of a misdemeanor and upon conviction shall be punished in the same manner as one convicted of driving a motor vehicle while license is suspended, and the license and order shall be automatically cancelled.]~~

SECTION 3. Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Section 23B to read as follows:

Sec. 23B. (a) A person who is issued a license under Section 23A or 25 of this Act must carry a certified copy of the court order with him when he is operating a motor vehicle. The person must allow a peace officer to examine the order at the officer's lawful request.

(b) A person who holds a license issued under Section 23A or 25 of this Act commits an offense if he operates a motor vehicle in violation of the restrictions on the license or if he fails to carry a certified copy of the court order as required by Subsection (a) of this section. An offense under this subsection is a Class C misdemeanor, and on conviction the license and order issued under Section 23A or 25 are automatically terminated.

SECTION 4. This Act takes effect September 1, 1983. Licenses issued under Section 23A or 25, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), before the effective date of this Act are subject to the law as it existed on the date of issuance, and that law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 147 WITH HOUSE AMENDMENT

Senator Blake called S.B. 147 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Hilbert

Substitute the following for S.B. 147:

A BILL TO BE ENTITLED AN ACT

relating to care of the State Capitol, General Land Office Building, their grounds, and their contents.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. BOARD. The State Preservation Board is established to preserve, maintain, and restore the State Capitol, the General Land Office Building, and their contents and their grounds. The buildings' grounds shall be defined by the board, but the grounds may not include any additional state office buildings.

SECTION 2. MEMBERSHIP. (a) The board consists of the governor, lieutenant governor, speaker of the house of representatives, one senator appointed by the lieutenant governor, one representative appointed by the speaker of the house of representatives, and one member appointed by the governor.

(b) The state representative and the state senator appointed to the board are appointed for two-year terms expiring in each odd-numbered year on the day prescribed by law for the convening of the regular session of the legislature. The person appointed to the board by the governor is appointed for a two-year term expiring on February 1 of each odd-numbered year.

(c) The committee functions performed by the governor, lieutenant governor, speaker of the house, appointed state representative, and appointed state senator are additional functions of their other public offices.

(d) The person appointed to the board by the governor is entitled to a per diem as set by the General Appropriations Act for each day that the person engages in the business of the board.

SECTION 3. CHAIRMAN; MEETINGS. (a) The governor is the chairman of the board.

(b) The board members shall meet at least twice a year and shall meet at other times at the call of the governor and as provided by the rules of the board.

SECTION 4. FUNCTIONS OF BOARD. (a) The board shall employ an architect of the Capitol who serves for a four-year renewable contract period and under the sole direction of the board.

(b) The board shall review and approve the architect's annual work plan, budget, and long-range master plan for the buildings, their grounds, and the objects under the care of the curator, whose position is created under Section 6(a)(8) of this Act.

(c) The board shall approve all changes to the buildings and their grounds including usual maintenance and any transfers or loans of objects under the curator's care.

(d) The board shall, with the architect, define and identify all significant aspects of the buildings and their grounds and, with the curator, identify and define all significant contents of the buildings.

(e) The board may adopt rules concerning the buildings, their contents, and their grounds. All powers and duties related to the buildings and formerly vested in the Texas Commission on the Arts, State Purchasing and General Services Commission, Antiquities Committee, Texas Historical Commission, Texas State Library and Archives Commission, or any other state agency are transferred to the board. Other specific duties may be allocated at the discretion of the board to the various state agencies.

(f) The board shall appoint a permanent advisory committee consisting of the executive director of the Texas Historical Commission, chairman of the Antiquities Committee, director of the Texas State Library and Archives Commission, and director of the Texas Commission on the Arts and three citizens, one each appointed by the governor, lieutenant governor, and speaker of the house. An appointed member serves at the will of the authority who appointed him. The committee shall assist in the development of the master plan, annual work program, and budget prepared by the architect of the Capitol and shall make recommendations concerning the approval of those documents by the board. The committee shall assist in the development of a collection policy prepared by the curator and shall make recommendations concerning the approval of these documents by the board. A citizen member of the committee is entitled to a per diem as set by the General Appropriations Act for each day that the person engages in the business of the committee.

(g) The board may appoint other advisory committees to aid it in carrying out its duties.

(h) Neither the board nor the architect has control over records and documents produced by or in the custody of a state agency, official, or employee officed in the Capitol.

SECTION 5. QUALIFICATIONS OF THE ARCHITECT OF THE CAPITOL. The architect of the Capitol must be a person with a bachelor's degree from an institution of higher education who is registered to practice architecture in this state and who has at least four years' experience in various aspects of architectural preservation, including historical research, preparation of plans and specifications, personnel management, policy development, and budget management.

SECTION 6. FUNCTIONS OF THE ARCHITECT OF THE CAPITOL. (a) The architect of the Capitol shall:

(1) employ staff necessary to administer the functions of the office and contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, and craftsmen;

(2) develop for approval by the board a master plan with a projection of at least 20 years concerning the maintenance, preservation, restoration, and modification of the buildings, their contents, and their grounds, including a plan to restore the buildings to their original architecture;

(3) review and recommend to the board for approval an annual work program and budget consistent with the master plan for all work including usual maintenance for the buildings, their contents, and their grounds;

(4) maintain archives relating to the construction and development of the buildings, their contents, and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Texas State Library and Archives Commission;

(5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;

(6) make recommendations to transfer, sell, or dispose of in another manner unused surplus property that is not of significance as defined in the collections policy and by the registration system and inventory prepared by the curator, in the manner provided by Article 9, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);

(7) approve all exhibits placed in the buildings; and

(8) employ a curator of the Capitol who shall assist in matters dealing with the preservation of historic materials and who must be a person with a minimum of a master's degree and four years' experience in historic collections administration with a specialization in the material culture of this state.

(b) The curator of the Capitol shall:

(1) develop and maintain a registration system and inventory of the contents of the buildings and their grounds and of the original documents relating to its construction and alteration;

(2) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the buildings;

(3) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the advisory committee and board;

(4) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance; and

(5) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy.

SECTION 7. OFFICES IN CAPITOL. (a) The board, the architect, or the curator may not move the office of the governor, lieutenant governor, or a member of the legislature from the Capitol unless the removal is approved by the governor in the case of the governor's office, by the lieutenant governor in the case of the lieutenant governor's office, or by the house of the legislature in which the member serves in the case of a legislative member's office.

(b) The board, architect, or curator have no control over the furniture, furnishings, and decorative objects in the offices of the members of the legislature.

SECTION 8. PROPERTY PROVIDED AND DONATIONS. (a) The board shall develop plans and programs to solicit gifts, money, and items of value.

(b) The board may solicit gifts and money or items of value from private persons, foundations, or organizations.

(c) All property provided by private persons, foundations, or organizations, and all money donated to the board become the property of the state and are under the control of the board.

(d) This section does not apply to temporary exhibits or property of a person having an office in the Capitol.

SECTION 9. FIRE INSPECTION. The state fire marshal shall inspect the Capitol on an annual basis and whenever requested by the board and shall report the results of the inspection to the board.

SECTION 10. APPLICATION OF SUNSET ACT. The board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished and Sections 1-11 of this Act expire September 1, 1995.

SECTION 11. RESPONSIBILITY FOR ITEMS. Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this Act are not part of the Texas State Library and are not subject to the custody or control of the Texas State Library and Archives Commission or any other agency.

SECTION 12. Article 5438, Revised Statutes, is amended to read as follows:

Art. 5438. CUSTODY OF RECORDS. The custody and control of books, documents, newspapers, manuscripts, archives, relics, mementos, flags, works of art, etc., and the duty of collecting and preserving historical data, is under the control of the Commission. ~~[The gallery of the portraits of the Presidents of the Republic and the Governors of this State constitutes a part of the State Library.]~~ All books, pictures, documents, publications and manuscripts, received through gift, purchase or exchange, or on deposit, from any source, for the use of the State, except those items subject to the control of the State Preservation Board, shall constitute a part of the Texas State Library, and shall be placed therein for the use of the public. The State Preservation Board, with the advice of the Commission, may determine the placement and removal of the items in buildings under the board's care.

SECTION 13. Section 4.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.05. INSPECTION OF STATE PROPERTY. The commission shall frequently inspect all the public buildings and property of the state ~~[at the capitol; and all other buildings and property of the state]~~ at such regular intervals as may be necessary to keep constantly informed of the condition of the same, except that the commission may inspect the buildings, property in the buildings, and other property under the control of the State Preservation Board only at the board's request. The commission shall report to the board the results of any inspection. Restoration and repairs may be made only at the direction of the board and only by a contractor or agency chosen by the board.

SECTION 14. Section 4.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

SECTION 15. This Act takes effect September 1, 1983.

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Blake moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Henderson asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 705 WITH HOUSE AMENDMENT

Senator Brooks called S.B. 705 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - DeLay

Substitute the following for S.B. 705:

A BILL TO BE ENTITLED AN ACT

relating to a program to screen and treat certain young persons for special senses and communication disorders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the Special Senses and Communication Disorders Act.

SECTION 2. PURPOSE. The purpose of this Act is to establish a program to identify, at as early an age as possible, those individuals from birth through 20 years of age who have special senses and communication disorders and who need remedial vision, hearing, speech, and language services. Early detection and remediation of those disorders will provide the individuals with the opportunity to achieve both academic and social status through adequate educational planning and training.

SECTION 3. DEFINITIONS. In this Act:

- (1) "Board" means the Texas Board of Health.
- (2) "Communication disorder" means an abnormality of functioning related to the ability to express and receive ideas.
- (3) "Department" means the Texas Department of Health.
- (4) "Preschool" means an educational or child-care institution that admits children who are three years of age or older but less than five years of age.
- (5) "Professional examination" means a diagnostic evaluation performed by a licensed, certified, or sanctioned individual whose expertise addresses the diagnostic needs of the individual identified as having a possible special senses or communication disorder.
- (6) "Provider" means an individual, partnership, association, corporation, state agency, or political subdivision of the state that provides remedial services to individuals who have special senses and communication disorders and includes a physician, audiologist, speech pathologist, optometrist, hospital, clinic, rehabilitation center, university, or medical school.
- (7) "Remedial services" means professional examinations and prescribed remediation, including prosthetic devices, for special senses or communication disorders.
- (8) "School" means an educational institution that admits children who are five years of age or older but less than 21 years of age.
- (9) "Screening" means a test or battery of tests for the rapid determination of the need for a professional examination.
- (10) "Special senses" means the faculties by which the conditions or properties of things are perceived and includes vision and hearing.

SECTION 4. SCREENING REQUIREMENTS. (a) The board shall adopt rules for the mandatory screening of individuals who attend public or private preschools or schools to detect vision and hearing disorders and any other special senses or communication disorders that the board may specify. The board shall adopt a schedule for implementing the screening requirements and shall give priority to age groups that may derive the greatest educational and social benefits from early identification of special senses and communication disorders. In developing the rules, the board may consider the number of individuals to be screened, the availability of personnel qualified to administer the required screening tests, the availability of appropriate screening equipment, and the availability of state and local funds for screening activities. The rules shall provide for acceptance of screening test results if the screening test has been conducted by a qualified professional utilizing acceptable screening procedures, regardless of whether that professional is under contract with the department.

(b) If the rules require an individual to be screened, the individual shall undergo approved screening tests for vision and hearing disorders and any other special senses and communication disorders specified by the board. The individual shall comply with the board's requirements as soon as possible after the individual's admission to a preschool or school and within the time period set by the board. The individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, may elect to substitute one or more professional examinations for the required screening tests.

(c) An individual is exempt from the screening requirements of this section if the screening tests conflict with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. The individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, shall submit to the admitting officer on or before the day of admission an affidavit stating the objections to screening.

(d) The chief administrator of each preschool or school shall ensure that each individual admitted to the preschool or school has complied with the screening requirements set by the board or has submitted an affidavit of exemption.

(e) The chief administrator of each preschool or school shall maintain screening records for each individual who is in attendance on a form prescribed by the department, and those records must be open for inspection by the department or local health department. An individual's screening records may be transferred among preschools and schools with the specific consent of the individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian.

(f) Each preschool or school shall submit to the department an annual report on the screening status of the individuals in attendance during the reporting year and shall include in the report any other information required by the board. The report must be on a form prescribed by the department and must be submitted according to the board's rules.

(g) The department may coordinate the special senses and communication disorders screening activities of school districts, private schools, state agencies, volunteer organizations, and other entities so that the efforts of each entity are complementary rather than augmented and duplicative. The department may provide technical assistance to those entities in developing screening programs.

SECTION 5. PROVISION OF REMEDIAL SERVICES. (a) The department may provide remedial services either directly or through approved providers to individuals who have certain special senses and communication disorders and who are not eligible for special education services administered by the Central Education Agency through the public schools, but who are eligible for remedial services provided by the department.

(b) The board shall adopt rules to describe the type, amount, and duration of remedial services that the department may provide. The rules must establish medical, financial, and other criteria to be applied by the department in determining an individual's eligibility for the services. The board may establish a schedule to determine financial eligibility and may require an individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian, to pay for or reimburse the department for a part of the cost of the remedial services provided. Remedial services may not be required without the consent of the individual, or if the individual is a minor, the minor's parent, managing conservator, or guardian.

SECTION 6. ELIGIBILITY. (a) In this section "other benefit" means a benefit to which an individual is entitled, other than a benefit under this Act, for payment of the costs of remedial services, including:

- (1) benefits received under a personal insurance contract;
- (2) payment received from another person for personal injury caused by the other person's negligence or wrongdoing; and
- (3) payments received from any other source.

(b) An individual is not eligible to receive remedial services authorized by this Act to the extent that the individual or the parent, managing conservator, or other person who has a legal obligation to support the individual is eligible for some other benefit that would pay for all or part of the services. On a prior showing of good cause, the department may waive this requirement if the department finds that the enforcement of this section would tend to disrupt the administration or prevent the provision of remedial services to otherwise eligible recipients or defeat the purpose of this Act.

(c) An applicant for or recipient of remedial services authorized by this Act shall inform the department, at the time of application or at any time during eligibility and receipt of services, of any other benefit to which the applicant or recipient may be entitled or to which the parent, managing conservator, or other person who has a legal obligation to support the applicant or recipient may be entitled.

(d) The individual or the parent, managing conservator, or other person who has a legal obligation to support an individual who has received remedial services from the department that are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.

(e) The department may recover the expenditure for services provided under this Act from a person who does not reimburse the department as required in this section or from any third party on whom there is a possible legal obligation to pay other benefits and to whom notice of the department's interests in the other benefits has been given. The department has a separate and distinct cause of action, and the commissioner of health may, without written consent, request the attorney general to bring suit in the appropriate court of Travis County on behalf of the department. A suit brought under this section need not be ancillary or dependent on any other action. In a judgment in favor of the department, the court may award attorney's fees, court costs, and interest accruing from the date on which the department first provides services to the individual to the date on which the department is reimbursed.

(f) The department may modify, suspend, or terminate the eligibility of an applicant for or recipient of remedial services after notice to the individual affected and the opportunity for a fair hearing. Fair hearings must be conducted in accordance with the board's informal hearing rules. The board shall adopt rules containing criteria for action under this section.

SECTION 7. ADDITIONAL POWERS AND DUTIES. (a) The board shall adopt substantive and procedural rules necessary to administer screening activities and provide remedial services.

(b) The department may require that persons who administer special senses and communication disorders screening tests complete an approved training program, and the department may train those persons and approve training programs.

(c) The department shall monitor the quality of screening activities provided under this Act.

(d) The department may directly or through local health departments enter and inspect records maintained by a preschool or school relating to screening for special senses and communication disorders.

(e) The department may enter into contracts and agreements necessary to administer this Act, including contracts for the purchase of remedial services.

(f) The department may provide educational and other material to assist local screening activities.

(g) The department may conduct research and compile statistics relating to the provision of remedial services to individuals with special senses and communication disorders and relating to the availability of those services in the state.

(h) The department may accept appropriations, donations, and reimbursements, including donations of prosthetic devices, and may apply those items to the purposes of this Act.

(i) The department shall select providers of remedial services according to criteria established in rules adopted by the board.

(j) The department shall compile and publish a report for the legislature on or before February 1 of each year describing the conduct of the program and its impact on public health.

SECTION 8. SPECIAL PROVISIONS FOR SPEECH, LANGUAGE, AND HEARING SCREENING, PROFESSIONAL EXAMINATION, AND REMEDIAL SERVICES. (a) A person who provides speech and language screening services authorized by this Act must be appropriately licensed or certified or trained by a person who is appropriately licensed or certified.

(b) A person who provides a professional examination or remedial services authorized by this Act for speech, language, or hearing disorders must be appropriately licensed or certified.

SECTION 9. INTERAGENCY COMMITTEE. (a) An interagency committee on special senses and communication disorders is established. The committee is composed of one delegate appointed by the chief administrative officer of each of the following agencies:

- (1) the State Commission for the Blind;
- (2) the Texas Commission for the Deaf;
- (3) the Texas Department of Human Resources;
- (4) the Texas Department of Mental Health and Mental Retardation;
- (5) the Central Education Agency;
- (6) the Texas Department of Community Affairs; and
- (7) the Texas Department of Health.

(b) The committee shall adopt written procedures for the conduct of its duties and may elect officers as it finds necessary.

(c) The committee shall assist the department in coordinating among participating agencies the special senses and communication disorders screening program and the remedial services programs.

(d) The committee shall meet at least once each calendar year in Austin and at other times and locations as the committee finds necessary.

SECTION 10. REPEALER. Chapter 754, Acts of the 60th Legislature, Regular Session, 1967 (Article 4447g, Vernon's Texas Civil Statutes), and Chapter 804, Acts of the 66th Legislature, Regular Session, 1979 (Article 4419f, Vernon's Texas Civil Statutes), are repealed.

SECTION 11. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 12. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Brooks moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 705 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Whitmire, Parmer, Sharp and Edwards.

SENATE BILL 1205 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 1205 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Crockett

Amend S.B. 1205 by striking the word "do" on line 15, page 1 and adding in its place the word "does".

Floor Amendment No. 2 - Watson

Amend S.B. 1205 as follows:

On page 1, line 13, insert the word "visual" between "a" and "motor".

Floor Amendment No. 3 - Green

Amend S.B. 1205 page 2 line 6 by striking the word "may" and substitute the word "shall".

Amend S.B. 1205 page 2, lines 7 through 10 by placing a period after the word "action" and striking the remainder of the sentence.

Floor Amendment No. 4 - Hackney

S.B. 1205 is amended as follows:

Strike the word "visual" on line 13, page 1, and substitute "parameter."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 84 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 84 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Burnett

Amend S.B. 84 as follows:

Page 1, line 16, last word — strike 11 and add "12".

Floor Amendment No. 2 - G. Thompson

Amend S.B. 84 by striking on pages 2 and 3, SECTION 6., and substituting the following:

"SECTION 6. EXPENSES. A member of the council may not receive compensation for performing the duties of the council. A member is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, at the same rate provided for state employees in the general appropriations act."

The amendment was read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1287 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 1287 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Green

Substitute the following for S.B. 1287:

**A BILL TO BE ENTITLED
AN ACT**

relating to the coverage for mental and emotional illness and disorders in certain accident and sickness insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955, as amended, (Article 3.70-2, Vernon's Texas Insurance Code), is amended by adding Subsection (F) to read as follows:

(F) A group policy of accident and sickness insurance delivered or issued for delivery to a person in this state including a group policy issued by a company subject to Chapter 20 or Chapter 20A, Texas Insurance Code, that provide coverage for treatment of mental or emotional illness or disorder for a person when confined in a hospital must also provide that coverage which is not less favorable shall be applicable for treatment under the direction and continued medical supervision of a Doctor of Medicine or Doctor of Osteopathy in a psychiatric day treatment facility that provides organizational structure and individualized treatment plans separate from an in-patient program; subject to the same durational limits, deductibles and coinsurance factors. Any benefits so provided shall be determined as if necessary care and treatment in a psychiatric day treatment facility were in-patient care and treatment in a hospital, and each full day of treatment in a psychiatric day treatment facility shall be considered equal to one-half of one day of treatment of mental or emotional illness or disorder in a hospital or in-patient program for the purpose of determining policy benefits and benefit maximums. An insurer shall offer and the policyholder shall have the right to reject such coverage for treatment of mental or emotional illness or disorder or may select an alternative level of benefits thereunder if such coverage is offered by or negotiated with such insurer, service plan corporation or health maintenance organization; provided, however, any such alternative level of benefits shall provide policy benefits and benefit maximums for treatment in psychiatric day treatment facilities equal to at least one half of that provided for treatment in hospital facilities. Any such policy may require that the treatment must be provided by a day treatment facility that treats a patient for not more than eight hours in any 24 hour period, that the attending physician certifies that such treatment is in lieu of hospitalization, and that the psychiatric treatment facility is accredited by the Program of Psychiatric Facilities, or its successor, of the Joint Commission on Accreditation of Hospitals. For the purpose of this subsection a psychiatric day treatment facility is a mental health facility which provides treatment for individuals suffering from acute, mental health and nervous disorders in a structured psychiatric program utilizing individualized treatment plans with specific attainable goals and objectives appropriate both to the client and the treatment modality of the program and that is clinically supervised by a Doctor of Medicine who is certified in psychiatry by the American Board of Psychiatry and Neurology.

SECTION 2. This Act applies only to policies delivered or issued for delivery to a group policyholder in this state on or after January 1, 1984. A policy delivered to a group policyholder before January 1, 1984, is governed by the law in effect at the time the policy was delivered, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three and several days in each House be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Simpson

1. Amend C.S.S.B. 1287 by deleting the word "provide" on line 12, page 1 and substituting in lieu thereof, the word "provides".
2. Amend C.S.S.B. 1287 by adding after the word "disorder" on line 5, page 2 the following:

"when confined in a hospital or in a psychiatric day treatment facility".

3. Amend C.S.S.B. 1287 by adding commas after the word "coverage" on line 14, page 1 and after the word "favorable" on line 15, page 1.

Floor Amendment No. 2 - Gavin

Amend S.B. 1287 on line 24 by striking the word "client" and inserting in lieu thereof the word "patient".

Floor Amendment No. 3 - Gavin

Amend S.B. 1287 on page 2, line 12, by inserting after the word "facilities" the following:

"but not to exceed the usual and customary charge of the psychiatric day treatment facility."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 79 WITH HOUSE AMENDMENT

Senator Brooks called S.B. 79 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - M. Garcia

Substitute the following for S.B. 79:

**A BILL TO BE ENTITLED
AN ACT**

relating to access rights to a child by grandparents of the child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 14.03(d), Family Code, is amended to read as follows:

(d) In a suit affecting the parent-child relationship, including a suit brought for the sole purpose of seeking the relief authorized by this subsection and including a proceeding for the modification of a previous order, and without regard to whether or not the appointment of a managing conservator is an issue in the suit, the court may issue and enforce orders granting to a grandparent of the child reasonable access to the child if a parent of the child is, at the time that the relief is requested, a natural parent of the child, if access to the grandparent is in the best interest of the child, and if:

(1) the grandparent seeking access to the child is a parent of a parent of the child and that parent of the child has been incarcerated in jail or prison during the three-month period preceding the filing of the petition, has been found by a court to be incompetent, or is dead;

(2) the parents of the child are divorced or have been living apart for the three-month period preceding the filing of the petition or a suit for the dissolution of the parents' marriage is pending;

(3) the child has been abused or neglected by a parent of the child;

(4) the child has been adjudicated to be a child in need of supervision or a delinquent child under Title 3 of this code;

(5) the grandparent seeking access to the child is the parent of a person whose parent-child relationship with the child has been terminated by court decree; or

(6) the child has resided with the grandparent seeking access to the child for at least six months within the 24-month period preceding the filing of the petition. [If the court finds that it is in the best interests of the child as provided in Section 14.07 of this code, the court may grant reasonable access rights to either the maternal or paternal grandparents of the child, and to either the natural maternal or paternal grandparents of a child whose parent-child relationship has been terminated or who has been adopted before or after the effective date of this code. Such relief shall not be granted unless one of the child's legal parents at the time the relief is requested is the child's natural parent. The court may issue any necessary orders to enforce said decree.]

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

(Senator Howard in Chair)

Senator Brooks moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 635 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 635 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Millsap

Amend S.B. 635, page 4, by striking the sentence at lines 18-21 and substituting the following:

The provisions contained herein relating to the academic medical degree shall not be applicable to any medical school or college, [on] any programs of a medical school or college, or to any office or offices of physicians singularly or in groups in the conduct of their profession.

Committee Amendment No. 2 - Millsap

Amend S.B. 635 by striking on page 3 line 23, and page 4 line 3, the word "facility" and "facilities" respectfully.

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 802 WITH HOUSE AMENDMENT

Senator Brown called S.B. 802 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - L. Hall

Substitute the following for S.B. 802:

**A BILL TO BE ENTITLED
AN ACT**

relating to the surrender, obtaining, and designation of certificates of title to certain motor vehicles; adding Subsections (c), (d), and (e) to Section 37, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), is amended by adding Subsections (c), (d), and (e) to read as follows:

"(c) The owner of a motor vehicle that has been rendered a total loss due to flood shall surrender to the Department the certificate of title or the manufacturer's statement of origin together with the written consent of the holders of all unreleased liens noted thereon. The Department shall thereupon cancel the certificate of title and the vehicle may not be operated in Texas.

"(d) Before operating in Texas a vehicle that has been rendered a total loss due to flood in Texas or elsewhere, the owner of the vehicle shall obtain a new certificate of title from the Department. Whether the vehicle for which a certificate of title is sought under this Subsection was last titled in Texas, or by authority of a jurisdiction other than Texas, the applicant shall disclose to the Department that the vehicle has been rendered a total loss due to flood.

"(e) The Department shall make an appropriate designation on all certificates of title issued pursuant to Subsection (d) of this Section and on all certificates of title issued pursuant to Subsection (b) of this Section for vehicles, the certificate of title or other evidence of ownership to which has been surrendered to the Department pursuant to Subsection (a) of this Section or Chapter 506, Acts of the 57th Legislature, Regular Session, 1961 (Article 6687-2, Vernon's Texas Civil Statutes). The Department shall insure that the designation required by this Subsection appear on the face of all certificates of title issued or reissued pursuant to this Section."

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Brown moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Santiesteban, Whitmire.

SENATE BILL 1283 WITH HOUSE AMENDMENT

Senator Parker called S.B. 1283 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Geistweidt

Substitute the following for S.B. 1283:

**A BILL TO BE ENTITLED
AN ACT**

relating to conversion of certain navigation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 60, Water Code, is amended by adding a new Subsection (b) to Section 60.244 so that Section 60.244 reads as follows:

Sec. 60.244. FINDINGS. (a) After the hearing, if the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property located in the district, it shall enter an order making these findings and the district shall become a district operating under Article XVI, Section 59, of the Texas Constitution.

(b) If at the hearing the navigation board finds that conversion of the district into a conservation and reclamation district operating under Article XVI, Section 59, of the Texas Constitution would serve the best interests of the district and would be a benefit to the land and property located in the district, it may, in the alternative to the procedures prescribed in Subsection (a) above, enter an order making this finding, but providing that conversion is not final unless the voters, in the election provided by Section 60.247 of this Code, authorize the conversion of the district and the continuation of the existing authority of the district to levy an annual maintenance tax of not to exceed 10 cents on the \$100 valuation of all property in this district.

(c) [(b)] If the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would not be in the best interest of the district and would not be a benefit to the land and property located in the district, it shall enter an order making these findings.

(d) [(c)] The findings of the navigation board are final and are not subject to appeal or review.

SECTION 2. Chapter 60, Water Code, is amended by adding Sections 60.247-60.249 to read as follows:

Sec. 60.247. OPTIONAL ELECTION. (a) If the navigation board finds in favor of the conversion of the district but pursuant to Section 60.244(b) of this code provides that the conversion is not final, the commissioners court of jurisdiction shall order an election to be held in the district and shall submit to the electors residing in the district the proposition of whether or not the district should be converted and should be authorized to continue to levy an annual tax for the maintenance, operation and upkeep of the district of not to exceed 10 cents on the \$100 valuation of all property within the district.

(b) The clerk of the commissioners court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the district.

(c) If the district is composed of more than one county, the notices required by Subsection (a) of this section shall be posted in each county.

(d) The notices must be posted for 30 days immediately preceding the time set for election.

(e) The notices must include:

- (1) the time and place of the election;
- (2) the proposition to be voted on; and
- (3) a copy of the election order.

(f) The commissioners court by order shall define the voting precincts in the district and shall name convenient polling places in the precincts.

(g) Immediately after the election, the officers holding the election shall make returns of the results to the commissioners court of jurisdiction, and the commissioners court shall promptly canvass the returns at a regular or special session of the commissioners court following the election.

Sec. 60.248. EFFECT OF ELECTION. If the commissioners court finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the results of the election to be in favor of conversion of the district and the levy of the annual maintenance tax, and shall enter the results in its minutes. If the commissioners court finds that a majority of those voting at the election voted against the proposition, it shall declare the results of the election to be unfavorable to the conversion of the district and shall enter the results in its minutes.

Sec. 60.249. EFFECT OF OPTIONAL CONVERSION. (a) If the conversion is approved by the voters, as provided in Sections 60.247-60.248 of this Code, the district shall have the same right, power, and authority as is provided in Section 60.245-60.246 of this Code.

(b) The district may continue to levy taxes to fully carry out each purpose of its organization and for the payment of obligations and the maintenance and operation of the district without impairment or change in any of its obligations.

(c) The district shall advise the Texas Water Commission of a conversion not later than the 45th day after the results of the election are canvassed by the commissioners court.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Santiesteban.

SENATE BILL 215 WITH HOUSE AMENDMENTS

Senator Parker called S.B. 215 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Hackney

Amend S.B. 215 by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:

- (1) "Council" means the Texas Diabetes Council.
- (2) "Department" means the Texas Department of Health.
- (3) "Person with diabetes" means a person who has been diagnosed by a physician as having diabetes.

SECTION 2. TEXAS DIABETES COUNCIL. (a) The Texas Diabetes Council is composed of six private citizen members and one representative each from the Texas Department of Health, the Central Education Agency, the Texas Department of Human Resources, the Texas Commission for the Blind, and the Texas Rehabilitation Commission.

(b) The governor with the advice and consent of the senate shall appoint the following private citizen members:

(1) one member, a licensed physician with a specialization in treating diabetes;

(2) one member from the nursing profession who is a registered nurse with a specialization in diabetes education and training;

(3) one member from the dietitian profession with certification as a nutritionist or dietitian and a specialization in the diabetes education field;

(4) one member with a graduate degree in public health or public policy and with experience and training in public health policy; and

(5) two consumer members, with special consideration given to persons active in the Texas affiliates of the Juvenile Diabetes Foundation or the American Diabetes Association.

(c) The commissioner of each agency listed in Subsection (a) of this section shall appoint that agency's representative.

(d) Members serve for staggered two-year terms, with the terms of three private citizen members and two agency representatives expiring February 1 of every odd-numbered year and the terms of three private citizen members and three agency representatives expiring February 1 of every even-numbered year. The office of a member appointed by an agency becomes vacant when the person terminates employment with the agency. If the office of a member who is an agency representative becomes vacant, the commissioner of that agency shall appoint an agency representative to serve for the remainder of that member's term.

(e) The members of the council shall annually elect one private citizen member to serve as chairperson.

(f) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(g) Any action taken by the council must be approved by a majority of the members present.

SECTION 3. STATE PLAN. (a) The council shall develop and implement a state plan for diabetes treatment, education, and training to ensure that:

(1) this Act is properly implemented by the agencies affected;

(2) individual and family needs are assessed statewide and all available resources are coordinated to meet those needs;

(3) health care provider needs are assessed statewide and strategies are developed to meet those needs;

(4) incentives are offered for private sources to maintain present commitments and to assist in developing new programs; and

(5) a procedure for review of individual complaints about services provided under this Act is implemented.

(b) The council shall make written recommendations for carrying out its duties under this Act to the State Board of Health and the legislature. If the council considers a recommendation that will affect an agency not represented on the council, the council shall seek the advice and assistance of the agency before taking action on the recommendation. The council's recommendations shall be implemented by the agencies affected by the recommendations.

SECTION 4. ADVISORY COMMITTEE. (a) The council may establish an advisory committee composed of two persons with diabetes, two professionals in health care delivery, two professionals in health care financing, and three representatives of advocacy or volunteer groups or associations. (b) The committee shall meet quarterly and serve under the rules of the council, but the committee shall elect its own chairman. The committee may be divided into regional committees to assist the council in community-level program planning and implementation. (c) Members of the advisory committee serve at the pleasure of the council.

SECTION 5. DUTIES. (a) The council with the advice of the advisory committee, if one is established, shall address contemporary issues affecting health promotion services in the state, including:

- (1) professional and patient education;
- (2) successful diabetes education strategies;
- (3) personnel preparation and continuing education;
- (4) state expenditures for treatment of chronic diseases;
- (5) screening services; and
- (6) public awareness.

(b) The council with the advice of the advisory committee, if one is established, shall advise the legislature on legislation that is needed to further develop and maintain a statewide system of quality education services for all person with diabetes. The council may develop and submit legislation to the legislature or comment on pending legislation that affects this population.

(c) The council shall:

- (1) compile and publish regional directories of services for persons with diabetes;
- (2) design or adapt and publish a handbook in English and Spanish relating to diet, exercise, and other self-care management skills for persons with diabetes;
- (3) study the feasibility of a statewide hotline for persons with diabetes; and
- (4) study the standards and structure of pilot programs to provide diabetes education and training in this state.

(d) The council may engage in studies that it determines are necessary or suitable under the state plan as provided by this Act.

(e) The department shall accept funds appropriated for the purposes of this Act. The council will recommend to the department for allocation of funds appropriated for purposes of this Act. The department shall allocate the funds.

SECTION 6. REIMBURSEMENT AND STAFF SUPPORT. (a) Council and advisory committee members shall be reimbursed by the department for actual and necessary expenses incurred in performing their duties. Funds for travel reimbursement shall be appropriated to the department.

(b) The agencies represented on the council shall provide periodic staff support of specialists as needed to the council. The agencies may provide staff support to the advisory committee.

SECTION 7. PUBLIC AWARENESS AND TRAINING. (a) The Texas Department of Health, the Texas Commission for the Blind, the Texas Rehabilitation Commission, the Texas Department of Human Resources, and the Central Education Agency shall jointly develop and implement:

- (1) a general public awareness strategy focusing on diabetes, its complications, and techniques for achieving good management;
- (2) a general public awareness strategy focusing on the pilot programs established by this Act; and
- (3) a statewide plan for conducting regional training sessions for public and private service providers, including institutional health care providers, who have routine contact with persons with diabetes.

(b) The council must approve the strategies and plans developed under this section.

SECTION 8. REPORT TO LEGISLATURE. The council shall study morbidity and mortality related to diabetes and shall report its findings to the members of the 69th Legislature before January 31, 1985.

SECTION 9. STAGGERED TERMS. (a) Solely for the purpose of computing terms, the terms of members of the council appointed before February 1, 1984, begin February 1, 1984. At that time, the members shall draw lots for the purpose of staggering terms so that the terms of three private citizen members and two agency representatives expire February 1, 1985.

(b) Members appointed to the council before February 1, 1984, have all the powers and duties of the council.

SECTION 10. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 2 - G. Thompson

Amend the Hackney amendment to **S.B. 215** by striking on page 1 SECTION 2. (a) and (b) and substituting new subsections to read as follows:

“SECTION 2. TEXAS DIABETES COUNCIL. (a) The Texas Diabetes Council is composed of six private citizen members and one representative each from the Texas Department of Health, the Central Education Agency, the Texas Department of Human Resources, the Texas Commission for the Blind, and the Texas Rehabilitation Commission. Appointments to the Council shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Council or act as the general counsel.

(c) The governor, with the advice and consent of the senate shall appoint the following private citizen members:“

Floor Amendment No. 3 - G. Thompson

Amend the Hackney amendment to **S.B. 215** by adding on page 11, Sec. 18A:

“The Texas Diabetes Council is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the Council is abolished, and this Act expires effective September 1, 1987.”

Floor Amendment No. 4 - G. Thompson

Amend the Hackney amendment to **S.B. 215** by striking on page 5, SECTION 6, and substituting a new SECTION 6 to read as follows:

“SECTION 6. REIMBURSEMENT AND STAFF SUPPORT. (a) Council and advisory committee members shall be reimbursed by the department for travel and other necessary expenses incurred in performing official duties, at the same rate provided for state employees in the general appropriations act. Funds for travel reimbursement shall be appropriated to the department.

(b) The agencies represented on the council shall provide periodic staff support of specialists as needed to the council. The agencies may provide staff support to the advisory committee.“

The amendments were read.

Senator Parker moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 258 WITH HOUSE AMENDMENT

Senator Uribe called **S.B. 258** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - D. Lee

Amend SECTION 1 of **S.B. 258** by adding a new Subsection (d) to Section 2.04 to read as follows:

“(d) Nothing in this section shall be construed to deny a person, as an exercise of religious freedom, to rely solely on spiritual means through prayer to prevent or cure disease, provided that the person complies with all control measures, other than treatment, imposed by the health authority or the department that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease.”

The amendment was read.

Senator Uribe moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 763 WITH HOUSE AMENDMENT

Senator Parker called S.B. 763 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Hackney

Amend S.B. 763 by striking lines 6 through 13 and substituting the following:

SECTION 1. Section 16.212(a), Texas Education Code, is amended to read as follows:

(a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter: [;]

(1) a county or district school board may contract with a public or commercial transportation company or system [companies] for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract[-], provided that the commercial transportation company or system:

(A) requires its school bus drivers to be certified by the Central Education Agency;

(B) uses only those school buses in transporting public school students that satisfy safety requirements imposed by law on school buses operated by public school transportation systems.

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Sarpalius, Sharp, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Kothmann, Traeger.

Absent: Santiesteban.

SENATE BILL 375 WITH HOUSE AMENDMENTS

Senator Doggett called S.B. 375 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Messer

Amend S.B. 375 by striking lines 1 and 2 on page 3 and substituting the following:

“(7) in [when the disclosure is relevant to] an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing [or hospitalization proceeding] under:

Floor Amendment No. 2 - Granoff

Amend S.B. 375 on page 5 by adding new Sections 3 and 4 as follows; and renumbering Sections 3 and 4 accordingly:

“SECTION 3. Subsection (n), Section 5.08, Medical Practice Act (Article 4495B, Vernon’s Texas Civil Statutes), is added to read as follows:

“(n) Nothing in this Act shall restrict the right of members of the legislative branch of the state government, for legitimate legislative purposes only, to have full access to any and all records of a state agency.”

“SECTION 4. Section (c), Article 5561H, Vernon’s Texas Civil Statutes, is added as follows:

“(c) Nothing in this Act shall restrict the right of members of the legislative branch of the state government, for legitimate legislative purposes only, to have full access to any and all records of a state agency.”

Floor Amendment No. 3 - Messer/Granoff

Amend S.B. 375, Third Reading, by deleting new Sections 3 and 4 as added by Second Reading amendment, and substituting the following:

“SECTION 3. Amend Article 4495b, Sec. 5.08 (h), Vernon’s Texas Civil Statutes, by adding a new subsection (8) to read as follows:

(h) Exceptions to the privilege of confidentiality, in other than court or administrative proceedings, allowing disclosure of confidential information by a physician, exist only to the following:

(1) governmental agencies if the disclosures are required or authorized by law;

(2) medical or law enforcement personnel if the physician determines that there is a probability of imminent physical injury to the patient, to himself, or to others, or if there is a probability of immediate mental or emotional injury to the patient;

(3) qualified personnel for the purpose of management audits, financial audits, evaluations, or research, but the personnel may not identify, directly or indirectly, a patient in any report of the research, audit, or evaluation or otherwise disclose identity in any manner;

(4) those parts of the medical records reflecting charges and specific services rendered when necessary in the collection of fees for medical services provided by a physician or physicians or professional associations or other entities qualified to render or arrange medical services;

(5) any person who bears a written consent of the patient or other person authorized to act on the patient’s behalf for the release of confidential information, as provided by Subsection (j) of this section;

(6) individuals, corporations, or governmental agencies involved in the payment or collection of fees for medical services rendered by a physician; [or]

(7) other physicians and personnel under the direction of the physician who are participating in the diagnosis, evaluation, or treatment of the patient; or

(8) in any official legislative inquiry regarding state hospitals or state schools, provided that no information or records which identify a patient or client shall be released for any purpose unless proper consent to the release is given by the patient,

and only records created by the state hospital or school or its employees shall be included under this subsection."

"SECTION 4. Amend Article 5561h, Vernon's Texas Civil Statutes, by adding a new subsection (7) to Section 4(b), to read as follows:

(1) to governmental agencies where such disclosures are required or authorized by law;

(2) to medical or law enforcement personnel where the professional determines that there is a probability of imminent physical injury by the patient/client to himself or others, or where there is a probability of immediate mental or emotional injury to the patient/client;

(3) to qualified personnel for the purpose of management audits, financial audits, program evaluations, or research, but such personnel may not identify, directly or indirectly, a patient/client in any report of such research, audit, or evaluation, or otherwise disclose identities in any manner;

(4) to any person bearing the written consent of the patient/client, or a parent if the patient/client is a minor, or a guardian if the patient/client has been adjudicated incompetent to manage his personal affairs, or to the patient's/client's personal representative if the patient/client is deceased;

(5) to individuals, corporations, or governmental agencies involved in the payment or collection of fees for mental or emotional health services performed by a professional as defined in Section 1 of this Act; [or]

(6) to other professionals and personnel under the direction of the professional who are participating in the diagnosis, evaluation, or treatment of the patient/client; or

(7) in any official legislative inquiry regarding state hospitals or state schools, provided that no information or records which identify a patient/client shall be released for any purpose unless proper consent to the release is given by the patient/client, and only records created by the state hospital or school or its employees shall be included under this subsection."

The amendments were read.

Senator Doggett moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 22 WITH HOUSE AMENDMENT

Senator Doggett called S.B. 22 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Criss

Amend S.B. 22 as follows:

(1) On page 2, line 4, strike the words, "an armor piercing bullet" and substitute: "armor-piercing ammunition".

The amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 255 WITH HOUSE AMENDMENT

Senator Vale called S.B. 255 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Polk

Amend SECTION 1 of S.B. 255 as follows:

Insert the following at the end of the third sentence of section (B) of Article 3.70-2 between "Doctor of Psychology" and ".":

“, Registered Nurse”

Insert the following at the end of the Section between "Health Service Provider" and ".":

“, and ”Registered Nurse: One licensed by the Texas Board of Nurse Examiners“

The amendment was read.

Senator Vale moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

Senator Lyon made the substitute motion to concur in the House amendments.

On motion of Senator Vale, the substitute motion to concur in the House amendments was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Blake, Brown, Caperton, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Traeger, Vale, Whitmire, Williams.

Nays: Brooks, Doggett, Edwards, Kothmann, Lyon, Mauzy, Santiesteban, Sharp, Truan, Uribe, Washington.

Question recurring on the motion to not concur in the House amendments, the motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 255 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Vale, Chairman; Howard, Harris, Traeger and Parmer.

SENATE BILL 557 WITH HOUSE AMENDMENTS

Senator Sarpalius called S.B. 557 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - T. Smith

Substitute the following for S.B. 557:

A BILL TO BE ENTITLED AN ACT

relating to offenses involving dog fighting and to the disposition of property connected with dog fighting.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.111 to read as follows:

Sec. 42.111. DOG FIGHTING. (a) A person commits an offense if he intentionally or knowingly:

- (1) causes a dog to fight with another dog;
- (2) for a pecuniary benefit causes a dog to fight with another dog;
- (3) participates in the earnings of or operates a facility used for dog fighting;
- (4) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;
- (5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or
- (6) attends as a spectator an exhibition of dog fighting.

(b) In this section, "dog fighting" means any situation in which one dog attacks or fights with another dog.

(c) A party to an offense under Subsection (a)(2), (3), or (4) of this section may be required to furnish evidence or testify about the offense but may not be prosecuted for the offense about which he is required to furnish evidence or testify.

(d) A conviction under Subsection (a)(2), (3), or (4) of this section may be had upon the uncorroborated testimony of a party to the offense.

(e) It is a defense to prosecution under Subsection (a)(1) or (2) of this section that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(f) An offense under Subsection (a)(1) or (5) of this section is a Class A misdemeanor. An offense under Subsection (a)(2), (3), or (4) of this section is a felony of the third degree. An offense under Subsection (a)(6) of this section is a Class C misdemeanor.

SECTION 2. Articles 18.18(a) and (b), Code of Criminal Procedure, 1965, are amended to read as follows:

(a) Following the final conviction of a person for possession of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia, for an offense involving a criminal instrument, or an offense involving a prohibited weapon, the court entering the judgment of conviction shall order that the machine, device, gambling equipment or gambling paraphernalia, instrument, or weapon be destroyed or forfeited to the state. Following the final conviction of a person for an offense involving dog fighting, the court entering the judgement of conviction shall order that any dog-fighting equipment be destroyed or forfeited to the state. Destruction of dogs, if necessary, must be carried out by a veterinarian licensed in this state or, if one is not available, by trained personnel of a humane society or an animal shelter. If forfeited, the court shall order the contraband delivered to the state, any political subdivision of the state, or to any state institution or agency. If gambling proceeds were seized, the court shall order them forfeited to the state and shall transmit them to the grand jury of the county in which they were seized for use in investigating alleged violations of the Penal Code, or to the state, any political subdivision of the state, or to any state institution or agency.

(b) If there is no prosecution or conviction following seizure, the magistrate to whom the return was made shall notify in writing the person found in possession of the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, [or] criminal instrument, or dog-fighting equipment to show cause why the property seized should not be destroyed or the proceeds forfeited.

SECTION 3. Articles 18.18(e), (f), and (g), Code of Criminal Procedure, 1965, are amended to read as follows:

(e) Any person interested in the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, [or] criminal instrument, or dog-fighting equipment seized

must appear before the magistrate on the 20th day following the date the notice was mailed or posted. Failure to timely appear forfeits any interest the person may have in the property or proceeds seized, and no person after failing to timely appear may contest destruction or forfeiture.

(f) If a person timely appears to show cause why the property or proceeds should not be destroyed or forfeited, the magistrate shall conduct a hearing on the issue and determine the nature of property or proceeds and the person's interest therein. Unless the person proves by a preponderance of the evidence that the property or proceeds is not gambling equipment, altered gambling equipment, gambling paraphernalia, gambling device, gambling proceeds, prohibited weapon, [or] criminal instrument; or dog-fighting equipment and that he is entitled to possession, the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article.

(g) For purposes of this article:

(1) "criminal instrument" has the meaning defined in the Penal Code;

(2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code;

(3) "prohibited weapon" has the meaning defined in the Penal Code; and

(4) "dog-fighting equipment" means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;

(B) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(C) a dog trained, being trained, or intended to be used to fight with another dog.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Whaley

Amend C.S.S.B. 557 as follows:

(1) On page 4, insert after line 22 the following new subsection: "(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;".

(2) On page 4, line 23, redesignate subsection "(B)" as subsection "(C)".

(3) On page 4, line 26, redesignate subsection "(C)" as subsection "(D)".

The amendments were read.

Senator Sarpalius moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1038 WITH HOUSE AMENDMENTS

Senator Glasgow called **S.B. 1038** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Green

Amend **S.B. 1038** at page 1, line 12, by adding the words "bunker coats," between the word "turnout coats," and "boots."

Floor Amendment No. 2 - Rudd

Amend **S.B. 1038** by adding a new Subsection (g) to amended Section 8A to read as follows:

(g) Notwithstanding Subsections (a) and (d) of this section, if the commission determines that protective clothing containing cotton provides substantially equal protection, the commission shall permit the state, county, and municipal agencies to use cotton protective clothing that the commission has determined to be acceptable instead of the protective clothing prescribed by the National Fire Protection Association.

The amendments were read.

(Senator Sharp in Chair)

Senator Glasgow moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 160 WITH HOUSE AMENDMENT

Senator Glasgow called **S.B. 160** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Danburg

Substitute the following for **S.B. 160**:

**A BILL TO BE ENTITLED
AN ACT**

relating to creation of the offense of tampering with food or a drug; defining offenses and providing penalties; adding Section 22.09 to Chapter 22, Penal Code, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 22, Penal Code, as amended, is amended by adding Section 22.09 to read as follows:

"Section 22.09. **TAMPERING WITH CONSUMER PRODUCT.** (a) In this section:

"(1) 'Consumer Product' means any product offered for sale to or for consumption by the public and includes 'food' and 'drugs' as those terms are defined in Section 2, Texas Food, Drug and Cosmetic Act, as amended (Article 4476-5, Vernon's Texas Civil Statutes).

"(2) 'Tamper' means to alter or add a foreign substance to a consumer product to make it probable that the consumer product will cause serious bodily injury.

"(b) A person commits an offense if he knowingly or intentionally tampers with a consumer product knowing that the consumer product will be offered for sale to the public or as a gift to another.

“(c) An offense under this Section is a felony of the third degree unless a person suffers serious bodily injury, in which event it is a felony of the first degree.”

SECTION 2. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 671 WITH HOUSE AMENDMENTS

Senator Glasgow called **S.B. 671** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Bomer

Amend **S.B. 671** as follows:

Strike the language “September 1, 1991” on page 15, line 1, and add the language “September 1, 1993”.

Floor Amendment No. 1 - Emmett

Amend **S.B. 671** on page 3, by striking subsection (f), and substituting the following:

(f) It is the intent of the legislature that the membership of the board reflect the historical and cultural diversity of the inhabitants of this state; therefore, appointments to the board should be made without discrimination based on race, creed, sex, religion, national origin or geographical distribution of the appointees.

The amendments were read.

Senator Glasgow moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 226 WITH HOUSE AMENDMENT

Senator Leedom called **S.B. 226** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Blanton

Substitute the following for **S.B. 226**:

**A BILL TO BE ENTITLED
AN ACT**

relating to information given to and consent required of parents or guardians of students recommended for attendance at or attending a school-community guidance center.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 16, Texas Education Code, is amended by adding Section 16.407 to read as follows:

"Sec. 16.407. PARENTAL NOTICE, CONSENT, AND ACCESS TO INFORMATION. (a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

"(b) Such notification shall include:

(1) the reason that the student has been assigned to the center;
(2) a statement that upon request, the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student. If, after notification, the parent refuses to consent to such testing or treatment, the center shall not provide any further psychological treatment or testing.

"(c) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

"(d) The administrator of the center may set a schedule for inspection of materials which allows reasonable access but does not interfere with the conduct of classes or business activities of the school."

SECTION 2. This Act takes effect beginning with the 1983-1984 school year.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Leedom moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 224 WITH HOUSE AMENDMENTS

Senator Leedom called S.B. 224 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Rangel

Amend S.B. 224 as follows:

(1) Add a comma "," after the word "cases" on page 1, line 14, and by adding a comma "," after the word "offenses" on page 1, line 14.

Committee Amendment No. 2 - Rangel

Amend S.B. 224 as follows:

- (1) Delete lines 19-21, page 6 and substitute in lieu thereof the following:
- (6) all written motions, pleas and orders of court
- (7) bill of exception; and
- (8) certified copies of all ordinances of which the municipal judge took notice.

The amendments were read.

Senator Leedom moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 640 WITH HOUSE AMENDMENT

Senator McFarland called S.B. 640 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Barrientos

Amend S.B. 640 by striking the bracketed language on page 1, lines 19 and 20 and inserting in lieu thereof "or is on parole or under mandatory supervision".

The amendment was read.

Senator McFarland moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 961 WITH HOUSE AMENDMENTS

Senator McFarland called S.B. 961 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Simpson

Amend S.B. 961 by inserting a comma (,) after the word "only" on line 10 of page 3 of the printed bill.

Committee Amendment No. 2 - Simpson

Amend S.B. 961 by adding a new Section 3 to the bill to read as follows:

Section 3. The Insurance Code, as amended, is amended by adding new Article 2.10-3 and Article 2.10-4 to read as follows:

"Article 2.10-3. Repurchase Agreements. (a) Subject to the limitations and restrictions contained herein an insurer may make loans to or purchases of securities from a solvent bank, savings and loan association, credit union, or securities broker registered under the Securities Exchange Act of 1934 under an agreement (commonly called repurchase agreement), which agreement provides for the purchase by the insurer of securities and which agreement matures in 90 days or less and provides for the repurchase by such entity of the same or similar securities purchased by the insurer provided:

"(1) such loan collateral or securities purchased are of the type of investments described and authorized by numbered paragraph 3 of Article 2.08 of this Code, and provided that the total market value of such securities shall equal or exceed the amount of such loan or purchase when it is made; and

"(2) such loan collateral or securities purchased from any one bank, savings and loan association, credit union, or securities broker may not exceed the greater of five percent of the insurer's assets or five percent of the amount of capital, surplus, and undivided profits of such bank, savings and loan association, credit union, or securities broker.

"(b) The State Board of Insurance may promulgate reasonable rules, regulations, and orders consistent with and implementing the provisions of this article."

"Article 2.10-4. Risk-Limiting Provisions. (a) Subject to the rules and regulations promulgated by the State Board of Insurance and the limitations contained in Subsections (b) and (d) of this article with respect to assets owned by an insurer, an insurer may for purposes of protecting such assets against the risk of changing asset values or interest rates and for risk reduction only buy put options or sell call options and terminate the same, buy or sell interest rate futures contracts and options on interest rate futures contracts, or utilize such other instruments or devices as are consistent with this article and are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodities Futures Trading Corporation.

"(b) An insurer may engage in the purchase of put options or sale of call options and terminate such option, only with regard to:

"(1) securities owned by the insurer; or

"(2) securities which the insurer may obtain through exercise of warrants or conversion rights held by the insurer.

"(c) Subject to the rules and regulations promulgated by the State Board of Insurance and the limitations contained in Subsection (d) of this article with respect to cash flows reasonably anticipated to be available for investment purposes within the succeeding 12 months, which anticipation cannot exceed an amount equal to 10 percent of such insurer's admitted assets, an insurer may for purposes of protecting such cash flows against the risk of changing asset values or interest rates and for risk reduction only, buy or sell interest rate futures contracts and options on interest rate futures contracts or utilize such other instruments or devices as are consistent with this article and are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodities Futures Trading Corporation.

"(d) An insurer may engage in the practices authorized by this article only if prior thereto the board of directors of such insurer has adopted a written policy which specifies:

"(1) the types of risk-limiting practices approved for such insurer;

"(2) the aggregate maximum limits in such instruments, which maximum limits must be reasonably related to the insurer's business needs and its capacity to fulfill its obligations thereunder;

"(3) the specific assets or class of assets or cash flows for which risk-limiting practices may be employed; and

"(4) that the insurer's accounting or investment records shall specifically identify the assets or cash flows for which each risk-limiting practice is used.

"(e) The State Board of Insurance is hereby authorized to adopt such reasonable rules and regulations, not inconsistent with the provisions of this article, which prescribe reasonable limits, standards, and guidelines with respect to such risk-limiting devices and plans related thereto."

Renumber Section 3 as Section 4.

The amendments were read.

Senator McFarland moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 572 WITH HOUSE AMENDMENT

Senator Montford called S.B. 572 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Colbert

Amend S.B. 572 by striking Section 51.454(e)(3) and substituting the following:

(3) determine each eligible institution's disbursement in accordance with the following:

(A) allocate to each eligible institution an amount necessary to match the income earned by the institution with the smallest amount of income earned;

(B) allocate to each institution that is not fully matched by the first allocation an amount necessary to match the income earned by the institution with the next larger amount of earned income;

(C) continue to allocate in the manner provided by Paragraph (B) of this subdivision until the amount that remains cannot be fully allocated in that manner; and

(D) allocate the amount remaining equally among the remaining institutions that have not been fully matched.

The amendment was read.

Senator Montford moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 385 WITH HOUSE AMENDMENTS

Senator Doggett called S.B. 385 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Madla

Amend S.B. 385 on page 11, line 2, by inserting between the "(a)" and "The" the following:

"A person may not operate or cause to be operated an emergency medical services vehicle unless the vehicle is permitted and staffed by emergency medical services personnel in accordance with this Act. A person may not practice as emergency medical services personnel unless the person is certified in accordance with this Act and rules adopted under this Act."

Committee Amendment No. 2 - Madla

Amend S.B. 385 on page 15, line 10 by deleting the word "may" and inserting in lieu thereof "are appropriated to the department to".

Committee Amendment No. 3 - Madla

Amend subdivision (3) of subsection (a) of Section 3.02 of S.B. 385 to read as follows:

"(3) minimum standards for medical supervision of advanced life support systems by a licensed physician under the terms of the Medical Practice Act (Article

4495b, Vernon's Texas Civil Statutes) and rules promulgated by the Texas State Board of Medical Examiners pursuant to the terms of the Medical Practice Act."

Committee Amendment No. 4 - Madla

Amend S.B. 385 as follows:

1) On Page 4, line 18, delete "ground", all of line 19, and on line 20, the words "transfer of the unstable urgently sick or injured," and the word "other".

2) On page 5 after line 23, add the following new definition:

"(23) 'Industrial ambulance' means any vehicle owned and operated by an industrial facility including both ground vehicles at industrial sites used for the initial transport or transfer of the unstable urgently sick or injured and ground vehicles at industrial sites used to transport persons at those sites who become sick, injured, wounded, or otherwise incapacitated in the course of their employment from job site to an appropriate medical facility; provided, however, that the vehicle is not available for hire or use by the general public except when assisting the local community in disaster situations or when existing ambulance service is not available."

3) On Page 12, line 6, between the words "residence" and "are", add "and industrial ambulances".

Committee Amendment No. 5 - Madla

Amend S.B. 385 on page 6, by striking line 6 and substituting the following: medical services. In filling the position of bureau chief, a preference shall be given to any applicant for the position who is a physician.

Committee Amendment No. 6 - Wright

Amend S.B. 385, on page 21, line 8, by striking "or in Travis County".

Committee Amendment No. 7 - Wright

Amend S.B. 385 on page 19, by striking lines 2-7 and substituting the following:

"(e) For the purposes of this section, a municipally operated emergency medical service that provides emergency prehospital care with the same personnel who provide fire or police services and that was in existence on January 1, 1983, is considered to be the equivalent of an emergency medical services volunteer provider.

Committee Amendment No. 8 - Schoolcraft

Amend S.B. 385 on page 14, between lines 24 and 25, by inserting the following:

"(g) The board shall exempt from the payment of fees under this section all individuals who actively participate in the operations of an emergency medical services volunteer provider.

Amendment No. 9 - Robinson

Amend S.B. 385 on page 21, between lines 17 and 18, by inserting Section 3.161 to read as follows:

Sec. 3.161. TEMPORARY CEILING ON FEES IN CERTAIN COUNTIES. (a) Before the fiscal year beginning September 1, 1985, in a county with a population of 20,000 or less according to the most recent federal census the total of fees collected for certification of volunteer services may not exceed \$50.

(b) This section expires September 2, 1985.

Floor Amendment No. 1 - Kubiak

Amend **S.B. 385** on third reading by inserting a new Section 2 to read as follows and by renumbering current Sections 2 through 6 accordingly:

SECTION 2. Section 3, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-3, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) A vehicle registered by the Texas Board of Health under Section 3.04, Chapter 636, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4447o, Vernon's Texas Civil Statutes), to be operated as an ambulance and used exclusively as an ambulance by a nonprofit, volunteer ambulance company shall be registered without the payment of an annual registration fee. The application for registration must be accompanied by a copy of the registration issued by the Texas Board of Health and an affidavit signed by an officer of the company stating that the vehicle is used exclusively by a nonprofit, volunteer ambulance company as an ambulance. The application must be approved by the department as provided by Section 3aa of this Act.

The amendments were read.

Senator Doggett moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 385** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Sarpalius, Truan, Washington and Mauzy.

SENATE BILL 845 WITH HOUSE AMENDMENTS

Senator Doggett called **S.B. 845** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Tejeda

Amend **S.B. 845** as follows:

On page 2, line 6, after the period insert "The Board may report to any committee of such professional society or the society's designated staff information which it may receive with regard to any pharmacist who may be impaired by chemical abuse, mental or physical illness."

Floor Amendment No. 2 - Madla

Amend **S.B. 845**, on third reading, by striking Section 3 and substituting the following:

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendments were read.

Senator Doggett moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 764 WITH HOUSE AMENDMENT

Senator Doggett called S.B. 764 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Delco

Amend S.B. 764 by striking Subdivision (1) of Subsection (1) of Section 67.211, Texas Education Code, as added by SECTION 1 of the bill and inserting in lieu thereof the following:

"(1) if the service or activity supported from the fees is not intercollegiate athletics or is not also appropriately classified as any other auxilliary enterprise that charges a fee directly related to the cost of the service under the criteria outlined in College and University Business Administration, Fourth Edition, (1982), published by the National Association of College and University Business Officers; or"

The amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 138 WITH HOUSE AMENDMENT

Senator Doggett called S.B. 138 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Eckels
Substitute the following for S.B. 138:

A BILL TO BE ENTITLED AN ACT

relating to costs imposed on criminal convictions for the purpose of funding the Compensation to Victims of Crime Fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 14, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (e), and (f) and adding Subsection (h) to read as follows:

(b) A person shall pay \$20 [\$15] as a court cost, in addition to other court costs, on conviction of any felony, \$15 [~~and shall pay \$10~~] as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by imprisonment or by a fine of more than \$200, and \$12.50 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by a fine of not more than \$200. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), or under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) is specifically excluded. The court shall require a person convicted of an offense listed under this section to pay the court cost whether or not the court grants the person a probated sentence. If a person is granted deferred adjudication under Article 42.12, 42.13, or 45.54, Code of Criminal Procedure,

1965, at the time the court grants deferred adjudication, the person shall pay as a court cost the amount that the person would have otherwise been required to pay under this subsection had the adjudication not been deferred and had the person been finally convicted of the offense.

(e) The custodian of a municipal or county treasury shall keep records of the amount of funds on deposit collected under this section and shall remit to the comptroller of public accounts before the last [10th] day of each calendar quarter [month] the funds collected under this section during the preceding quarter [month]. The city and the county may retain 10 [five] percent of the funds collected under this section as a collection fee. If no funds due as costs under this section have been collected in a quarter, the report required for the quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(f) The comptroller of public accounts shall deposit the funds received by him or her under this section in the Compensation to Victims of Crime Fund. Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the state auditor.

(h) If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board shall issue a public letter of warning to the court. If the court is a county court, the board shall send a copy of the letter to the commissioners court of the county in which the court presides. If the court is a municipal court, the board shall send a copy of the letter to the governing body of the municipality in which the court presides.

SECTION 2. This Act takes effect January 1, 1984, and applies only to the imposition of an additional court cost under the Crime Victims Compensation Act for conviction of an offense committed on or after that date. Court costs for an offense committed before that date are covered by the law in effect on the date the offense was committed, and the prior law is continued in effect for this purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Doggett moved to concur in the House amendment.

The motion prevailed.

SENATE JOINT RESOLUTION 1 WITH HOUSE AMENDMENTS

Senator Williams called S.J.R. 1 from the President's table for consideration of the House amendments to the resolution.

The Presiding Officer laid the resolution and the House amendments before the Senate.

Committee Amendment No. 1 - Shea

Substitute the following for S.J.R. 1:

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize taxing units to exempt from taxation the property of certain veterans' organizations and certain property of fraternal organizations.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 2, of the Texas Constitution be amended by adding Subsections (c) and (d) to read as follows:

"(c) The governing body of a political subdivision may exempt from ad valorem taxation property of veterans' organizations that are chartered by the United States Congress, composed of members or former members of the armed forces of the United States, and organized for patriotic and public service purposes, including the American Legion, Veterans of Foreign Wars, and Disabled American Veterans.

"(d) The governing body of a political subdivision may exempt from ad valorem taxation the property of fraternal organizations that are organized to perform and are primarily engaged in performing charitable and benevolent functions. The legislature by general law may limit the types or amount of property that may be exempted under this subsection and may provide eligibility requirements for an organization to receive an exemption under this subsection."

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1983. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to exempt from taxation the property of certain veterans' organizations and to authorize taxing units to exempt from taxation certain property of fraternal organizations."

Floor Amendment No. 1 - Kemp

Amend C.S.S.J.R. 1 on page 2 by striking lines 2-5 and substituting the following:

against the proposition: "The constitutional amendment to authorize taxing units to exempt from taxation property of certain veterans' and fraternal organizations."

The amendments were read.

Senator Williams moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 23 WITH HOUSE AMENDMENT

Senator Williams called S.B. 23 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Shea

Substitute the following for S.B. 23:

A BILL TO BE ENTITLED AN ACT

relating to the exemption of certain buildings of veterans' or fraternal organizations from ad valorem taxation; providing an effective date contingent on passage of a constitutional amendment; amending Section 11.23, Tax Code, by adding Subsections (k) and (l).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.23, Tax Code is amended by adding Subsection (k) to read as follows:

"(k) The governing body of a taxing unit in the manner provided by law for official action by the body may exempt from taxation each of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) of a veterans' organization chartered by the United States Congress, composed of members or former members of the armed forces of the United States, and organized for patriotic and public service purposes, including the American Legion, Veterans of Foreign Wars of the United States, and Disabled

American Veterans, providing that each of the buildings exempted is owned by that organization and used primarily as its post or meeting hall, is used exclusively by the organization or its members, and is not used to produce a profit or for residential purposes. An organization does not lose an exemption if the building is used by a person who is not a member of the organization and whose use is limited to civic, educational, or charitable activities and is incidental to the organization's use of the building. A veterans' organization is not entitled to an exemption under this section if the organization is classified as subversive by the United States attorney general."

SECTION 2. Section 11.23, Tax Code, is amended by adding Subsection (l) to read as follows:

"(l) Fraternal Organizations. The governing body of a taxing unit in the manner provided by law for official action by the body may exempt from taxation each of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) of a qualified fraternal organization if the building is owned by that organization, is used primarily as its meeting hall, is used exclusively by the organization or its members, and is not used to produce a profit or for residential purposes. A building may be exempt under this subsection even if the building is used by a person who is not a member of the fraternal organization if that person's use is limited to civic, educational, or charitable activities and is incidental to the organization's use of the building. To qualify for an exemption under this subsection, a fraternal organization must:

"(1) be organized to perform and be primarily engaged in performing charitable and benevolent functions; and

"(2) not practice or advocate discrimination on the basis of race or color."

SECTION 3. This Act takes effect January 1, 1984, and applies only to taxes imposed on or after that date, except that if the constitutional amendment proposed by S.J.R. No. 1 is not approved by the voters, this Act has no effect.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Williams moved to concur in the House amendment.

The motion prevailed.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 258, Permitting Gulf Coast Regional Mental Health-Mental Retardation Center to sue the state.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 223 WITH HOUSE AMENDMENT

Senator Caperton called S.B. 223 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Parker

Amend S.B. 223, SECTION 4 (a) to read as follows:

SECTION 4. JUDGE (a) The judge of the county court at law must have been a bona fide resident of Waller County for at least two years prior to his appointment or election and must be a qualified voter in Waller County, at least 30 years of age, and a licensed attorney in this state who has been actively engaged in the practice of law for a period of five years prior to his appointment or election.

The amendment was read.

Senator Caperton moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 701 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 701 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Rangel

S.B. 701, a bill to be entitled an act relating to a substantive revision of state law governing certain trusts, is hereby amended as follows:

1. ARTICLE 1, TITLE 1, CHAPTER 11, SECTION 11.002(15) page 6, line 25 to read as follows:

"adoption, an ancestor, descendant, brother, sister, or spouse of any of them."

2. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.001 at page 28, following line 17, add a new sentence:

"In the absence of any contrary terms in the trust instrument or contrary provisions of this code, in administering the trust the trustee has all of the duties imposed on trustees by the common law."

3. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.001 at page 30, following line 21, add a new SUBSECTION (f):

"(f) A trustee may:

"(1) comply with the terms of any written executory contract signed by the settlor, including but not limited to contracts for deed, earnest money contracts, buy/sell agreements, and stock purchase or redemption agreements: and "(2) sell the stock, bonds, obligations, or other securities of a corporation to the issuing corporation or to its corporate affiliate, provided that such sale is pursuant to an agreement described in Subdivision (1) of this section or is in compliance with the duties imposed by Section 32.002 of this code."

4. ARTICLE 1, TITLE 3, CHAPTER 32, SECTION 32.005 at page 33, lines 15-25:

Delete in their entirety lines 15 through 25, inclusive.

5. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.001(b) at page 52, line 25:

"make a profit, not resulting from a failure to perform the duties set forth in Section 32.002 of this code or any other breach of trust."

6. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.001(c) at page 53, line 1:

“chargeable with any damages resulting from such breach of trust, including but not limited to:”

7. ARTICLE 1, TITLE 4, CHAPTER 41, SECTION 41.005 at page 54, line 19:

“of any of the provisions of this code, except as to the duties, restrictions, and liabilities imposed on corporate trustees by Sections 32.001(b) and (c) of this code.”

8. ARTICLE 1, TITLE 4, CHAPTER 43, SECTION 43.002(a) (2) at page 56, line 10:

“trustee was guilty of actionable negligence or intentional misconduct in incurring the”

9. ARTICLE 1, TITLE 4, CHAPTER 44, SECTION 44.003(a)(1)(B) at page 58, line 12:

“actionable negligence or intentional misconduct in incurring the liability; or”

10. ARTICLE 2, SUBTITLE B, CHAPTER 111, SECTION 111.004(13) at page 86, line 8:

“adoption, an ancestor, descendant, brother, sister, or spouse of any of them.”

11. ARTICLE 2, SUBTITLE B, CHAPTER 113, SECTION 113.051 at page 111, line 7:

“administer the trust according to its terms and this subtitle. In the absence of any contrary terms in the trust instrument or contrary provisions of this subtitle, in administering the trust the trustee shall perform all of the duties imposed on trustees by the common law.”

12. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B, SECTION 113.053 at page 111, lines 24 and 25:

“TRUSTEE. (a) Except as provided by Subsections (b), (c), (d) and (e), a trustee shall not directly or indirectly buy or sell”

13. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B, SECTION 113.053 at page 112, following line 25, add a new Subsection (e):

“(e) A trustee may:

“(1) comply with the terms of a written executory contract signed by the settlor, including a contract for deed, earnest money contract, buy/sell agreement, or stock purchase or redemption agreement; and

“(2) sell the stock, bonds, obligations, or other securities of a corporation to the issuing corporation or to its corporate affiliate if the sale is made under an agreement described in Subdivision (1) or complies with the duties imposed by Section 113.056.”

14. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B, SECTION 113.059(b) at page 116, lines 12 and 13:

“duties, restrictions, or liabilities of Section 113.052 or 113.053 of this Act.”

15. ARTICLE 2, SUBTITLE B, CHAPTER 113, SUBCHAPTER B, SECTION 113.059(b) at page 116, lines 14-22:

Delete in their entirety lines 14 through 22 inclusive.

16. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A, SECTION 114.001(b) at page 135, line 13:

“make a profit that does not result from a failure to perform the duties set forth in Section 113.056 or for any other breach of trust.”

17. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A, SECTION 114.001(c) at page 135, line 15:

“with any damages resulting from such breach of trust, including but not limited to:”

18. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A, SECTION 114.001(d) at page 135, lines 22-25:

Delete in their entirety lines 22 through 25, inclusive.

19. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER A, SECTION 114.005 at page 137, line 5:

"liability for past violations, except as to the duties, restrictions, and liabilities imposed on corporate trustees by Section 113.052 or 113.053 of this subtitle."

20. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER C, SECTION 114.062(b)(2) at page 139, line 5:

"the trustee is guilty of actionable negligence or intentional misconduct in incurring the"

21. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D, SECTION 114.083 at page 140, line 16:

"Sec. 114.083. RIGHTS AND LIABILITIES FOR COMMITTING TORTS. (a) A"

22. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D, SECTION 114.083(a)(2) at page 140, line 26:

"the trustee is guilty of actionable negligence or intentional misconduct in incurring the"

23. ARTICLE 2, SUBTITLE B, CHAPTER 114, SUBCHAPTER D, SECTION 114.083 at page 141, following line 9, add a new Subsection (d):

"(d) Subject to the rights of exoneration or reimbursement under Section 114.062, the trustee is personally liable for a tort committed by the trustee or by the trustee's agents or employees in the course of their employment."

The amendment was read.

Senator Farabee moved to concur in the House amendment.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 641 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 641 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Wolens

Amend S.B. 641 as follows:

Section 10 (a) (2) on page 15, lines 23 and 24 is amended by striking the words "agreement incorporated into".

Section 10 (c) on page 16, lines 25 and 26 and page 17, lines 1 through 4 is amended by deleting it, and the following is substituted:

"(c) A taxing unit is not required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, or, if the zone was created before the effective date of this Act, beyond September 1, 1986, unless the following conditions exist or have been met within three years from the date the zone was created, or prior to September 1, 1986 in those zones created before the effective date of this Act:

SECTION 2(a) is deleted and amended as follows:

SECTION 2. (a) A reinvestment zone created or operated under the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as it existed before the effective date of this Act (or a reinvestment zone upon which there had been a hearing after a city had made expenditures with respect to its creation) may

operate as it existed (or as it was proposed to have existed) prior to the effective date of this act, provided that, before January 1, 1984, the board of directors of the zone and the plans for the zone are reconstituted to conform to Sections 6 and 8 of the Texas Tax Increment Financing Act of 1981 (Article 1066e, Revised Statutes) as amended by this Act. Nothing herein contained is intended to or shall be construed to authorize the impairment of any contract entered into prior to the effective date of this Act.

SECTION 2 (b) is deleted.

SECTION 2 (c) is now SECTION 2 (b).

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 551 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 551 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Pumbo

Substitute the following for S.B. 551:

A BILL TO BE ENTITLED AN ACT

relating to the gulfward boundaries of coastal home-rule cities, to contracts or agreements by coastal home-rule cities, to reformation of city boundaries, to the creation of industrial districts, and to powers and authority of a city in relation to industrial districts and in relation to the reformation of boundaries; amending Subsections (b), (c), and (d) and adding Subsection (e), Section 11.0131, Natural Resources Code.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.0131, Natural Resources Code, is amended by amending Subsections (b), (c), and (d) and by adding Subsection (e) to read as follows:

"(b) The boundary of a [A] home-rule city may not extend into the gulf outside of an area that is enclosed by:

"(1) for home-rule cities which have not prior to May 1, 1983, annexed gulfward from the coastline:

"(A) drawing a straight line connecting the two most remote points on the part of the coastline located in the city on June 1, 1983, the distance to be measured along the coastline;

"(B) drawing straight lines that extend gulfward for one marine league from each of the two ends of the line drawn under Paragraph (A) of Subdivision (1) of this subsection and that are perpendicular to the line drawn under Paragraph (A); and

"(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (B) of Subdivision (1) of this subsection; or

"(2) for home-rule cities which have, prior to May 1, 1983, annexed no farther than one marine league gulfward from the coastline:

"(A) drawing a straight line that connects the two most remote points on the part of the coastline located in the city on June 1, 1983, and that extends through those two points as far as necessary to draw the lines described by Paragraph (B) of Subdivision (2) of this subsection;

"(B) drawing two straight lines that extend gulfward for one marine league, that are perpendicular to the line drawn under Paragraph (A) of Subdivision (2) of this subsection, and that each extend through one of the two most remote points from the coastline on the boundary lines extending gulfward from the coastline;

"(C) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (B) of Subdivision (2) of this subsection; or

"(3) for home-rule cities which have, prior to May 1, 1983, annexed farther than one marine league gulfward from the coastline:

"(A) drawing lines following the two current boundary lines extending gulfward from the coastline for a distance of one marine league;

"(B) drawing a straight line connecting the two gulfward ends of the lines drawn under Paragraph (A) of Subdivision (3) of this subsection [annex state-owned submerged lands located:

"[(1) gulfward from the coastline; or

"[(2) more than 5,280 feet from the corporate city boundaries in bays or estuaries].

"(c) A contract or agreement by which a home-rule city purports to pledge, directly or indirectly, taxes or other revenue from or attributable to state-owned submerged lands or other lands located outside the area described by Subsection (b) of this section [more than one marine league gulfward from the coastline] does not create an enforceable right to prevent the reformation of the city's boundary under Subsection (d) of this section [removal, by disannexation or other means, of all or part of the submerged lands from the city's jurisdiction].

"(d) The boundary of a home-rule city is void to the extent that it violates Subsection (b) of this section, and the boundary is reformed on the effective date of this Act to exclude the territory situated outside the area described by Subsection (b) of this section [This section expires October 1, 1983].

"(e) A home-rule city may create industrial districts in the area that is outside the city limits and that is located in an area formed in the manner prescribed by Subsection (b) of this section except that the lines drawn under Paragraph (B) of Subdivision (1), Paragraph (B) of Subdivision (2) or Paragraph (A) of Subdivision (3) of Subsection (b) may be extended for no more than five statute miles instead of one marine league. The governing body of such city shall have the right, power, and authority to designate the area described as an industrial district, as the term is customarily used, and to treat such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the right and power to enter into contracts or agreements with the owner(s) or lessee(s) of land in such industrial district upon such terms and considerations as the parties might deem appropriate. The city shall have no authority to regulate oil and gas exploration, production, and transportation operations in an industrial district established pursuant to this Act, but in consideration of such relinquishment and the relinquishment of other rights under Section 5, Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), the city is expressly authorized to require payments of a property owner or lessee(s) in such industrial district in an amount not to exceed 35 percent of the revenue that would be produced if the city imposed a property tax in the industrial district. Nothing herein shall prohibit a city and property owner or lessee(s) from agreement by contract for payments in a lesser amount."

SECTION 2. The reformation of a city's boundaries under Section 11.0131, Natural Resources Code, as amended by this Act, does not affect the authority of

a city to collect any city taxes for any year preceding and including, prorated, the year of the effective date of this Act on an area that is removed from the city by the reformation of boundaries if, on May 1, 1983, the legality of the annexation or the imposition of the taxes was involved in litigation and the validity of the annexation is upheld in a final, nonappealable judgment in such litigation.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Lyon.

SENATE BILL 1131 WITH HOUSE AMENDMENT

Senator Henderson called **S.B. 1131** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - A. Smith

Amend **S.B. 1131** on page 3, line 5 by deleting "of" between the words "reserves" and "other" and inserting in lieu thereof "and".

The amendment was read.

Senator Henderson moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 970 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 970** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Toomey

Amend **S.B. 970** on page 1, line 3, after "bridges," by inserting "turnpikes, highways,".

Floor Amendment No. 1 - Green

Amend **S.B. 970** by inserting the following on page 6 at the end of line 9 after the word "Act.":

"If the County shall find it necessary to close or change the location of any portion of any non-toll road, street or highway, it shall cause the non-toll road, street or highway to be reconstructed at such a location and in such a fashion as the County shall determine will provide substantially the same access as the non-toll road, street or highway being closed or re-located."

The amendments were read.

Senator Henderson moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 11 WITH HOUSE AMENDMENT

Senator Mauzy called S.B. 11 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Jackson

Substitute the following for S.B. 11:

A BILL TO BE ENTITLED AN ACT

relating to the quorum and the number of votes required for a commissioners court to levy a tax and the meetings at which a tax may be levied; amending Articles 2343, as amended, and 2354, Revised Statutes.

BE IT ENACTED BY THE LEGISLATION OF THE STATE OF TEXAS:

SECTION 1. Articles 2343, as amended, and 2354, Revised Statutes, are amended to read as follows:

"Article 2343. QUORUM. [(a)] Any three members of the court, including the county judge, constitute a quorum for the transaction of any business except that of levying a county tax.

~~"[(b)] In case a member of the court is incapacitated from any cause, then any other four members of the court constitute a quorum for levying the tax if~~

~~"[(1)] the member's incapacity is certified in writing by a duly licensed physician, and~~

~~"[(2)] a district court of the county approve the certification]."~~

"Article 2354. WHEN TAX LEVIED; VOTES REQUIRED. (a) A county tax may be levied at any regularly scheduled meeting of the court when at least four members of the court are present. ~~[No county tax shall be levied except at a regular term of the court, and when all members of said court are present].~~

"(b) A county may not levy a tax unless at least three members of the court vote in favor of the levy."

SECTION 2. This Act takes effect January 1, 1984.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTES

Senators Brown and Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 429 WITH HOUSE AMENDMENTS

Senator Harris called **S.B. 429** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Russell

Amend **S.B. 429** as follows:

On page 4, on lines 4 and 5, delete "or a grand jury"

Committee Amendment No. 2 - Arnold

Amend **S.B. 429**, on page 6 at the end of line 2 by inserting the following language: "The provisions of this Act shall not apply to the investigation or prosecution of criminal offenses."

Floor Amendment No. 3 - Coody

Amend **S.B. 429** by striking line 23 on page 4 and substituting the following: "entitled to recover reasonable costs of reproduction which it incurs in".

The amendments were read.

Senator Harris moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 482 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 482** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Russell

Amend **S.B. 482** by striking Sections 2 and 3 and substituting the following:

SECTION 2. Chapter 47, Penal Code, is amended by adding Section 47.11 to read as follows:

Sec. 47.11. RAFFLE AUTHORIZED BY CONSTITUTION. It is a defense to prosecution for an offense under this chapter that the conduct was authorized by Article III, Section 47, Subsection (d), of the Texas Constitution.

SECTION 3. (a) Section 1 of this Act takes effect September 1, 1983.

(b) Section 2 of this Act takes effect on adoption of the amendment to the Texas Constitution proposed by **H.J.R. 97**, Acts of the 68th Legislature, Regular Session, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 482** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Farabee, Mauzy, Glasgow and McFarland.

SENATE BILL 1091 WITH HOUSE AMENDMENTS

Senator Harris called **S.B. 1091** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Arnold

Amend **S.B. 1091** on page 4, line 5, after the word "article" by adding the following: "Section 9. Charges. No charges on fees may be imposed by a financial institution in relation to an account in which funds located in that account may be electronically transferred unless such charges or fees are reasonably related to the cost of services performed by the financial institution. The burden of proving the reasonableness of such fees or charges is on the financial institution."

Floor Amendment No. 2 - Green

Amend **S.B. 1091** on page 4, line 5, after the word "article" by adding the following: "Section 7. Unauthorized Use. A cardholder shall be liable for the unauthorized use of an accepted card or other means of access only for the liability not excess of \$50. The term "accepted card or other means of access" is used herein as defined in the Electronic Funds Transfer Act at 15 U.S.C. 1693 a (1) as amended."

Senator Harris moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 1091** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Glasgow, Henderson, McFarland and Sharp.

SENATE BILL 860 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 860** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - C. Smith

Substitute the following for **S.B. 860**:

**A BILL TO BE ENTITLED
AN ACT**

relating to membership in and benefits from the Employees Retirement System of Texas for elected class service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.201, Title 110B, Revised Statutes, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c) of this section, a [A] retiree may not rejoin the retirement system as a member of the class from which the person retired.

(c) A person who is retired from the elected class of membership and who holds a position included in that class may elect to become a member by filing notice with the retirement system before December 31, 1983. Membership begins on the date notice is filed, and the member may establish credit as provided by Section 23.402 of this subtitle. When benefit payments are resumed, the retirement system shall recompute the annuity selected at the time of the person's original retirement to include the additional service established during membership under this subsection.

SECTION 2. Section 22.203, Title 110B, Revised Statutes, is amended by adding Subsection (e) to read as follows:

(e) If a member who originally retired before January 1, 1975, with service credited at the time of that retirement only in the elected class of membership again retires, the person at the time of subsequent retirement may select an annuity based on service in the elected class as if the person were retiring for the first time. If the person selects an annuity under Section 24.108(c)(3) or (c)(4) of this subtitle, the retirement system shall reduce the number of months of guaranteed payment by the number of months for which an annuity was paid under the person's original retirement.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Lyon.

SENATE BILL 105 WITH HOUSE AMENDMENTS

Senator Howard called **S.B. 105** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Jackson

Substitute the following for **S.B. 105**:

**A BILL TO BE ENTITLED
AN ACT**

relating to the membership, operations, and continuation of the Industrial Commission under the name of the Texas Economic Development Commission and to the commission's advisory council on small business assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 83, Revised Statutes, is amended by amending Articles 5183, 5183a, 5184, 5185, 5188, 5189, and 5190, and by adding Articles 5183b, 5185a, 5185b, and 5185c to read as follows:

Art. 5183. APPOINTMENT OF MEMBERS; QUALIFICATIONS; TERMS

Sec. 1. The Texas Economic Development ~~[Industrial]~~ Commission ~~is~~ composed of ~~fifteen~~ twelve members, each of whom shall be from a different geographical area of the state, two of whom shall be employers of labor, two of whom shall be employees or laborers, three of whom shall be residents of rural areas, and ~~eight~~ five of whom shall be from the general public. For the purposes of this article, a person resides in a rural area if he resides in a county which has no city located on or within its boundaries with a population of 50,000 or more, according to the last preceding federal census, and he does not reside in an incorporated city or town which has a population of more than 10,000, according to the last preceding federal census.

Sec. 2. The members of this commission shall be appointed by the Governor with the advice and consent of the Senate~~;~~ ~~such appointments to be made biannually~~ on or before February 15 of odd-numbered years. Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

Sec. 3. The term of office of each member shall be six years. The terms of ~~five~~ four members shall expire every two years. Vacancies occurring in the commission shall be filled by appointment of the Governor for the unexpired term.

Art. 5183a. APPLICATION OF SUNSET ACT. The Texas Economic Development ~~[Industrial]~~ Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1995 ~~[1983]~~.

Art. 5183b. REMOVAL FROM COMMISSION

Sec. 1. It is a ground for removal from the commission that a member:

(1) does not have at the time of appointment the qualifications required by Section 1, Article 5183, Revised Statutes, for appointment to the commission;
(2) does not maintain during the service on the commission the qualifications required by Section 1, Article 5183, Revised Statutes, for appointment to the commission; or

(3) violates the prohibition established by Article 5185a, Revised Statutes.

Sec. 2. The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal for a member of the commission existed.

Art. 5184. MEETINGS AND EXPENSES. The commission shall meet quarterly or at the call of the chair. The members of the ~~[this]~~ commission shall serve without pay or salary. The actual expenses incurred during hearings had by or before the commission and railway fare and hotel bills incurred by them shall be paid out of appropriations made to the executive office for the payment of rewards and the enforcement of the law, until such time as the Legislature may make appropriations to cover such items.

Art. 5185. OFFICERS AND DUTIES.

Sec. 1. The governor shall designate one of the [commission shall elect one of their] members as chair [chairman] of the commission, to preside at all hearings had under the provisions of this law, with power and authority usually exercised by chairs [chairmen] in such capacity. The chair may appoint committees to perform various functions but these committees may not act for the commission in exercising any official duties or performing functions of the agency.

Sec. 2. The commission shall appoint an executive director who shall serve as executive head of the agency. He shall keep full and accurate minutes of all

transactions and proceedings of the commission; he shall be the custodian of all files and records of the commission; and he shall perform such other duties as may be required by the commission. The executive director shall be the administrator of the Texas Economic Development [Industrial] Commission's activities.

Sec. 3. The executive director of the commission or his designee shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

Sec. 4. The executive director of the commission or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this section.

Art. 5185a. CONFLICT OF INTEREST. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities performed for compensation in or on behalf of a profession related to the operation of the commission may not serve as a member of the commission or act as the general counsel to the commission.

Art. 5185b. AUDIT. The state auditor shall audit the financial transactions of the commission during each fiscal year.

Art. 5185c. INFORMATION FOR THE PUBLIC. The commission shall prepare information of consumer interest describing the functions of the commission and describing the commission's procedures by which consumer complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

Art. 5188. OPEN MEETINGS [HEARING TO BE PUBLIC]. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). [All hearings had by this commission shall be open to the public, and the findings and recommendations of the commission shall be furnished to the news agencies and newspapers of the State, to be published by the several papers of this State as news items.]

Art. 5189. REPORT TO GOVERNOR AND LEGISLATURE. During January of each year, the commission shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year. [The commission shall also make full report to the Legislature, if in session, and if not in session, then to the succeeding session, setting forth the findings and recommendations, accompanied by a transcript of the testimony taken at the hearings provided for herein.]

Art. 5190. NOTICE OF STANDARDS OF CONDUCT [POWER OF COMMISSION]. The commission shall provide to its members and employees as often as is necessary information regarding their qualifications and their responsibilities under applicable laws relating to standards of conduct for state officers or employees. [The commission shall have power to summon witnesses, to issue subpoenas, to compel attendance of witnesses, to compel production of books and records by witnesses, to punish for contempt, to hold sessions and to take testimony in or out of the State of Texas, and to pay witnesses as paid in felony cases.]

SECTION 2. Sections 4 and 5, Small Business Assistance Act of 1975 (Article 5190.3, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 4. (a) The Advisory Council on Small Business Assistance is created.

(b) The council consists of [the executive director of the industrial commission as chairman ex officio, and] nine members, appointed by the governor

with the advice and consent of the senate. Five members must be~~at least six of whom are~~ owners or employees of small businesses, one member must be an officer of a financial institution, one member must be an officer of an insurance company, and two members must be members of the general public.

(c) The governor shall designate one member as chair ~~[chairman]~~ of the council ~~[Service as chairman ex officio of the council is an additional duty of the office of the executive director of the industrial commission]~~.

Sec. 5. Members ~~[(a) Except as provided by Subsection (b) of this section, appointive members]~~ of the council are appointed for staggered terms of six years with three members' terms expiring ~~[that terminate]~~ on February ~~[January]~~ 1 of odd-numbered years.

~~[(b) For terms beginning on the effective date of this Act the governor shall appoint:~~

~~[(1) three members for terms that expire January 31, 1981;~~

~~[(2) three members for terms that expire January 31, 1979; and~~

~~[(3) three members for terms that expire January 31, 1977.]~~

SECTION 3. Section 2(10), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Project" shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the ~~[promotion of manufacturing development and expansion and for the]~~ industrial development and expansion of airport and port facilities dedicated to the public, [distribution centers, truck terminals operated by regulated common carriers,] sewage or solid waste disposal facilities, air or water pollution control facilities, [and other industrial facilities,] and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the commission, irrespective of whether in existence or required to be acquired or constructed thereafter. In addition, in blighted or economically depressed areas or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the commission, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The commission shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its findings and determinations. Notice of the hearing at which the city considers establishment of an economically depressed or blighted area shall be posted at the city hall before the ~~[prior to such]~~ hearing.

"Federally assisted new communities" shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has

received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.

SECTION 4. Section 11, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. (a) The corporation shall have a board of directors in which all powers of the corporation shall be vested and which shall consist of any number of directors, not less than three, each of whom shall be appointed by the governing body of the unit under whose auspices the corporation was created for a term of no more than six years, and each of whom shall be removable by the unit for cause or at will. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder.

(b) The board of directors is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 5. The Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) is amended by adding Section 14A to read as follows:

Sec. 14A. The board of directors is subject to the open records act, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

SECTION 6. Section 24(b), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The corporation may submit a transcript of proceedings in connection with the issuance of the bonds to the commission and request that the commission approve the [such] bonds. On filing a request for the commission's approval of issuance of the bonds, the corporation shall pay to the commission a nonrefundable filing fee. The commission shall set the amount of the fee at an amount reasonable in relation to the costs of administration, but not greater than [of] \$1,500. If the commission refuses to approve the [such] bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Supreme Court, and for this purpose the chair [chairman] of the commission shall be considered a state officer as provided in Article 1733, Revised Civil Statutes of Texas, 1925.

SECTION 7. (a) A member of the Advisory Council on Small Business Assistance who was appointed before the effective date of this Act and was eligible to be a member of the council under the law as it existed at the time of his appointment may serve the remainder of the term for which he was appointed.

(b) As incumbent members of the council vacate their offices or as their terms expire, the governor shall appoint members to the council to achieve as soon as possible the membership scheme established by Section 4, Small Business Assistance Act of 1975 (Article 5190.3, Vernon's Texas Civil Statutes), as amended by this Act.

SECTION 8. (a) A member of the Texas Economic [Industrial] Commission who was appointed before the effective date of this Act and was eligible to be a member of the commission under the law as it existed at the time of his appointment may serve the remainder of the term for which he was appointed. The grounds for removal from the commission in Article 5183b do not apply to a member of the commission who was appointed before the effective date of this Act.

(b) In making the initial appointments of the three additional public members required by Article 5183, Revised Statutes, as amended by this Act, the governor shall designate one for a term expiring February 15, 1985, one for a term expiring February 15, 1987, and one for a term expiring February 15, 1989.

SECTION 9. The requirements under Sections 3 and 4, Article 5185, Revised Statutes, as added by this Act, that the executive director of the Texas Economic Development [Industrial] Commission develop an intra-agency career ladder

program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Section 4, Article 5185, that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

SECTION 10. This Act takes effect September 1, 1983.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - B. Gibson

Amend C.S.B. 105, SECTION 3, by deleting SECTION 3 in its entirety and substituting therefor the following:

SECTION 3. Subdivision (10), Section 2, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Project" shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including airports, ports, mass commuting facilities and parking facilities), sewage or solid waste disposal facilities, air or water pollution control facilities, facilities for the furnishing of water, electric energy or gas to the general public, sports facilities, convention and trade show facilities, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, [manufacturing development and expansion and for the industrial development and expansion of airport and port facilities, distribution centers, truck terminals operated by regulated common carriers, sewage or solid waste disposal facilities, air or water pollution control facilities, and other industrial facilities,] and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the commission, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term "development areas" shall mean any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. In addition, in blighted or economically depressed areas or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the commission, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The commission shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its

findings and determinations. Notice of the hearing at which the city considers establishment of a development area or an economically depressed or blighted area shall be posted at the city hall before the [prior to such] hearing.

Federally assisted new communities' shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.

Floor Amendment No. 2 - Ragsdale

Amend C.S.S.B. 105, SECTION 1, page 4 by adding a new Section 5 to proposed Article 5185 to read as follows:

Sec 5. The executive director shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;

(3) steps reasonably designed to overcome any identified under-utilization of minorities and women in the agency's workforce;

and, (4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within sixty days of the effective date of this Act, cover an annual period and be updated at least annually. Progress reports shall be submitted to the Governor's office within thirty days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

Floor Amendment No. 3 - B. Gibson

Amend C.S.S.B. 105 on third reading by amending the first sentence of the paragraph beginning with the words "(10) "Project shall mean..." on page 1 of Floor Amendment No. 1 by B. Gibson, adopted on second reading, to read as follows:

(10) "Project shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including, but not limited to, airports, ports, mass commuting facilities and parking facilities), sewage or solid waste disposal facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, [manufacturing development and expansion and for the industrial development and expansion of airport and port facilities, distribution centers, truck terminals operated by regulated common carriers, sewage or solid waste disposal facilities, air or water pollution control facilities, and other industrial facilities;] and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the commission, irrespective of whether in existence or required to be acquired or constructed thereafter.

The amendments were read.

Senator Howard moved to concur in the House amendments.

—The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 638 WITH HOUSE AMENDMENT

Senator Traeger called S.B. 638 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Berlanga
Substitute the following for S.B. 638:

A BILL TO BE ENTITLED
AN ACT

relating to the application of sales, rental, and use taxes on certain vehicles and machinery used for farm purposes and to the definition of motor vehicle in relation to motor vehicle sales, rental, and use taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 152.001(3) and (4), Tax Code, are amended to read as follows:

(3) "Motor Vehicle" includes:

(A) a self-propelled vehicle designed to transport [~~capable of transporting~~] persons or property on a public highway;

(B) a trailer and semitrailer; and

(C) a house trailer as defined by the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

(4) "Motor Vehicle" does not include:

(A) a device moved only by human power;

(B) a device used exclusively on stationary rails or tracks; or

(C) [~~farm machinery, a farm trailer, or~~] road-building machinery; [~~or~~

~~[(D) a self-propelled vehicle used exclusively to move a farm trailer, farm machinery, or road building machinery.]~~

SECTION 2. Section 152.001, Tax Code, is amended by adding Subdivision (13) to read as follows:

(13) "Farm machine" means a self-propelled motor vehicle specially adapted for use in the production of crops or rearing of livestock, including poultry, and use in feedlots, and includes a self-propelled motor vehicle specially adapted for applying plant food materials, agricultural chemicals, or feed for livestock. "Farm machine" does not include any self-propelled motor vehicle specifically designed or specially adapted for the sole purpose of transporting agricultural products, plant food materials, agricultural chemicals, or feed for livestock.

SECTION 3. Chapter 152, Tax Code, is amended by adding Section 152.091 to read as follows:

Sec. 152.091. FARM USE. (a) The taxes imposed by this chapter do not apply to the sale or use of a farm machine, trailer, or semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots.

(b)(1) The taxes imposed by this chapter do not apply to the purchase of a farm machine, trailer, or semitrailer that is to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots.

(2) The exemption provided by this subsection applies only if the person purchasing the farm machine, trailer, or semitrailer to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing:

(A) the identification of the motor vehicle;

(B) the name and address of the lessor and the lessee; and

(C) verification by the lessee that the farm machine, trailer or semitrailer will be used primarily for farming and ranching, including the rearing of poultry and use in feedlots.

(3) If a motor vehicle for which the tax has not been paid ceases to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same percentage rate that is provided by Section 152.021(b) of this code.

(c) The taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, or a semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots. The tax that would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts imposed by Section 152.026 of this code. The exemption provided by this subsection applies only if the owner of the motor vehicle obtains in good faith an exemption certificate from the person to whom the vehicle is being rented.

SECTION 4. This Act takes effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 800 WITH HOUSE AMENDMENT

Senator Traeger called S.B. 800 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. 800:

A BILL TO BE ENTITLED AN ACT

relating to the authority of a city, town, or village to make an agreement or contract with a conservation and reclamation district for the purchase of hydroelectric power or energy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. AUTHORITY TO CONTRACT. Any incorporated city, town, or village, including any home-rule city, in this state may agree or contract with any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be on the terms and conditions and for a period as the parties may agree. The agreement or contract constitutes a valid and binding obligation of the city, town, or village and is enforceable in accordance with its terms and provisions. If the agreement or contract so provides, the city, town,

or village is obligated to pay for the hydroelectric power or energy irrespective of whether the hydroelectric power or energy is produced or delivered to the city, town, or village. Furthermore, the agreement or contract may include provisions for the acquiring, constructing, and equipping of generation and transmission facilities to supply the hydroelectric power and energy to be supplied and purchased under the agreement or contract; provisions with respect to financing the costs and expenses of the generation and transmission facilities; and provisions that the agreement or contract shall continue in force and effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. These provisions are as may be provided and specified in the agreement or contract between the parties.

SECTION 2. ADDITIONAL PROVISIONS. Amounts required to be paid by the city, town, or village to the district under the agreement or contract shall, if so provided in the agreement or contract, constitute an operating expense of the electric system, or combined utility system of which the electric system constitutes a part, of the city, town, or village in the same manner and effect as other operating and maintenance expenses of the electric system, or combined utility system, as provided by Article 1113, Revised Statutes.

SECTION 3. VALIDATION OF CONTRACT. An agreement or contract executed before the effective date of this Act by and between a city, town, or village and a conservation and reclamation district that obligates the city, town, or village in the manner authorized by Section 1 of this Act is validated, ratified, and confirmed and constitutes a lawfully incurred obligation on the part of the city, town, or village and is subject to the other provisions of this Act.

SECTION 4. OTHER LAWS. The powers and authority granted by this Act are in addition to any powers and authority granted to cities, towns, and villages under the laws of this state and constitute additional public purposes of the cities, towns, and villages. This Act is wholly sufficient authority for the performance or effectuation of an agreement or contract entered into under this Act notwithstanding any express or implied limitations on the powers, authority, or purposes of cities, towns, or villages under any other general or special law, charter provision, or ordinance.

SECTION 5. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Lyon.

SENATE BILL 126 WITH HOUSE AMENDMENTS

Senator Traeger called S.B. 126 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Oliver

Amend S.B. 126, page 3, line 6, by inserting the following before the word "Unauthorized":

"Immediately following the employment decision of the Department with respect to the applicant, all such conviction data collected by the Department relating to his or her application shall be collected and destroyed by the Department."

Committee Amendment No. 2 - DeLay

Amend S.B. 126 by deleting Sec. 2.29 (a) and (b).

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 1082 WITH HOUSE AMENDMENT

Senator Caperton called S.B. 1082 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Armbrister

Amend S.B. 1082 by adding SECTIONS 2 and 3 to read as follows and renumbering the remaining section accordingly:

"SECTION 2. Fifty percent (50%) of the fees collected under the provisions of Article 3924, Revised Civil Statutes, 1925, as amended, shall be deposited in a special fund in the State Treasury to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the Court of Appeals depositing such fees as approved by the Chief Justice of that Court. The expenditure of said funds shall be upon a warrant drawn upon the State Treasury by the Office of Court Administration for the foregoing purposes."

"SECTION 3. For the state fiscal years ending August 31, 1984 and August 31, 1985, there is hereby appropriated to the Office of Court Administration fifty percent (50%) of the fees collected under provisions of this Act to be used exclusively for necessary expenses incurred for the continuing professional education of the justices and staff of the court of appeals depositing such fees, as provided for in Section 2 of this Act."

The amendment was read.

Senator Caperton moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 294 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on S.B. 294 (The Conference Committee Report having been filed with the Senate and read on Thursday, May 26, 1983.)

On motion of Senator Caperton, the Conference Committee Report was adopted.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1 ADOPTED**

Senator Sarpalius called from the President's table the Conference Committee Report on **S.B. 1**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 26, 1983.)

On motion of Senator Sarpalius, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Washington.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 642**.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 642 ADOPTED**

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 642**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1983.)

On motion of Senator Lyon, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 921 WITH HOUSE AMENDMENT

Senator Doggett called **S.B. 921** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - B. Gibson

Amend **S.B. 921** by:

- (1) inserting the word "reasonable" after the word "a" and before the word "processing" on line 8,
- (2) deleting subsection (b) on line 9,
- (3) redesignating subsection (c) as subsection (b).

The amendment was read.

Senator Doggett moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 921** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Glasgow, Mauzy, Sharp and McFarland.

SENATE RESOLUTION ON FIRST READING

On motion of Senator Brown and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.C.R. 133 by McFarland

Administration

Granting DiscoverAir permission to sue the State.

HOUSE RESOLUTIONS ON FIRST READING

The following resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 258, To Committee on Administration.

H.C.R. 268, To Committee on Administration.

CONFERENCE COMMITTEE REPORT SENATE BILL 1190

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas

May 26, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1190** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FARABEE
GLASGOW
McFARLAND
HARRIS
CAPERTON

On the part of the Senate

JACKSON
DAVIS
CAIN
TOOMEY
M. GARCIA

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to requirements in certain lawsuits in which the State of Texas or any state agency is a party and of notice of intent to take default judgments against the State of Texas or any state agency and to consequences of failure to perform the requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Upon the filing of any pleading in a civil case in which the State of Texas or any agency in the executive or legislative department is named as a party, the Attorney General of Texas shall be served promptly with a true copy of such pleading at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested.

(b) The requirement in Subsection (a) of this section does not satisfy any other jurisdictional requirements with regard to service of process upon a state officer, board, commission, agency, or institution that is named as a party in a court proceeding.

SECTION 2. Notice of intent to take a default judgment against the State of Texas or any state agency shall be served upon the attorney general at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested, at least 10 days prior to the date of the proposed default judgment.

SECTION 3. Failure to perform the requirements of Section 1 or Section 2 shall render any default judgment against the State of Texas or such state agencies void.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

COMMITTEE SUBSTITUTE HOUSE BILL 885 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 885, Relating to commissions' oversight of matters concerning employment and unemployment in the state, to the continuation of the Texas Employment Commission, to the membership, operation, powers, and duties of the Texas Employment Commission and the Department on Human Rights, to the State Advisory Council, and to the prohibition of discrimination in certain employment transactions; providing penalties; amending Sections 10, 11, 29, and Subsection (a), Section 12, Texas Unemployment Compensation Act, as amended (Articles 5221b-8, 5221b-9, 5221b-22d, and 5221b-10, Vernon's Texas Civil Statutes); Subsection (a), Section 1, Chapter 72, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-16, Vernon's Texas Civil Statutes); repealing Section 2a, Chapter 72, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-16, Vernon's Texas Civil Statutes); and Chapter 327, Acts of the 58th Legislature, Regular Session, 1963 (Article 6252-14, Vernon's Texas Civil Statutes).

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **H.B. 885** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 10, Texas Unemployment Compensation Act (Article 5221b-8, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. TEXAS EMPLOYMENT COMMISSION. (a) Organization: There is hereby created a Commission to be known as the Texas Employment [~~Unemployment Compensation~~] Commission. The Commission shall consist of three (3) members, one of whom shall be a representative of labor, one of whom shall be a representative of employers, and one of whom shall be impartial and shall represent the public generally. During the time of the public member's service on the Commission, the public member may not be an officer, employee, or paid consultant of a labor-oriented or employer-oriented trade association.

(b) Appointment: Each of the three (3) members of the Commission shall be appointed by the Governor, and the Governor shall fill by appointment [~~immediately after the effective date of this Act or after~~] any vacancy that occurs in the membership of the Commission. Appointments to the Commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. During his term of membership on the Commission, no member shall engage in any other business, vocation or employment. Members [~~Each member shall~~] hold office for staggered terms [~~a term~~] of six (6) years, with the term of one (1) member expiring every other year [~~except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of enactment of this Act shall expire, as~~]

designated by the Governor at the time of appointment, one at the end of two (2) years, one at the end of four (4) years, and one at the end of six (6) years after the date of his appointment].

(c) Disqualification: A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Commission or act as the general counsel to the Commission during the time the person is registered as a lobbyist. If the person ceases to engage in lobbying activity and files a notice of termination as prescribed by Section 7, Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), the person may serve as a member of the Commission or act as the general counsel to the Commission.

(d) [(b)] Chairman: The Chairman of the Texas Employment [Unemployment Compensation] Commission shall be the impartial member of the Commission[, and shall in addition serve as the executive director of all divisions of the Texas Unemployment Compensation Commission].

(e) [(c)] Employment Service and Advisory Council: The Commission is authorized to operate a public employment service but it is not necessary that same be operated as a separate division of the Commission. The Commission is also authorized to appoint one (1) [a] State Advisory Council composed of fifteen (15) persons representing employers, employees and the public. Each Commissioner may appoint five (5) persons to the Council which shall meet regularly. Advisory Council members shall be allowed and paid, as a part of the cost of administering this Act and in accordance with regulations of the Commission, necessary travel and subsistence expenses, in addition to a per diem allowance, in connection with meetings of the Council; but they shall for no purpose be regarded as State employees. The Commission shall fix the composition and establish the duties of the State Advisory Council and may take such action as it deems necessary or suitable to this end. In addition to the duties established by the Commission, the Council shall prepare an annual report describing its work during the previous year and detailing any recommendations it may have. The Commission shall include the Council's report in the Commission's annual report to the Governor and the Legislature required by Subsection (b), Section 11, of this Act. The Commission may likewise appoint and pay local advisory councils and consultants under the same conditions prescribed herein for the State Advisory Council.

(f) [(d)] Salaries: The salaries of the members of the Texas Employment Commission shall be as specified in the regular departmental appropriation bill.

(g) [(e)] Quorum: Any two (2) Commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining Commissioners to exercise all of the powers of the Commission.

(h) Removal: It is a ground for removal by impeachment from the Commission if:

(1) a member is absent from every Commission meeting held during any sixty (60)-day period after the member received at least forty-eight (48) hours' notice of the meeting; or

(2) the member is unable to discharge his duties for the remainder of the term for which he was appointed because of illness or other disability.

The validity of an action of the Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

(i) [(g)] Sunset Provision: The Texas Employment Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the Commission is abolished effective September 1, 1995 [1983].

SECTION 2. Section 11, Texas Unemployment Compensation Act (Article 5221b-9, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. ADMINISTRATION. (a) Duties and Powers of Commission: It shall be the duty of the Commission to administer this Act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, to ~~[employ such persons,]~~ make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this Act, which the Commission shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. The Commission shall appoint an Agency Administrator on the basis of merit to administer the day-to-day operations of the Texas Employment Commission. The Commission may prescribe any specific qualifications for the position necessary to comply with federal law. The position of Agency Administrator is a merit system position.

(b) Annual Report: As soon after the close of each State fiscal year as is practicable, the Commission shall submit to the Governor and the Legislature a report covering the administration and operation of this Act during the preceding State fiscal year, and the Commission shall make such recommendations for amendments to this Act as the Commission deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. The report shall also include the annual report prepared by the State Advisory Council as prescribed by Section 10(d) of this Act. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

(c) ~~[(b)]~~ Regulations and General and Special Rules: General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten (10) days after filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten (10) days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(d) ~~[(c)]~~ Publication: The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's regulations and general rules, and its annual reports to the Governor and the Legislature. The Commission shall also prepare information of interest describing the functions of the Commission and describing the Commission's procedures by which complaints are filed with and resolved by the Commission. The Commission shall make the information, and other material the Commission deems relevant and suitable, available to the general public and appropriate state agencies[, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor].

(e) ~~[(d)]~~ Personnel: The Agency Administrator ~~[Subject to other provisions of this Act, the Commission]~~ is authorized to appoint~~[- fix the compensation,]~~ and prescribe the duties and powers of all ~~[such]~~ officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of the Commission's ~~[its]~~ duties. The Agency Administrator ~~[Commission]~~ shall not employ or pay any person who is an officer or committee member of any political party organization.

The Agency Administrator [~~Commission~~] may delegate to any such person so appointed such power and authority as the Agency Administrator [it] deems reasonable and proper for the effective administration of this Act, and may, at the Agency Administrator's [~~in its~~] discretion, bond any person handling moneys or signing checks hereunder. The Agency Administrator or the Agency Administrator's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Commission employees must be based on the system established under this subsection.

(f) Employee Information: The Commission shall provide to its members and employees as often as is necessary information regarding their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(g) [(e)] Records and Reports: Each employing unit shall keep true and accurate employment records, containing such information as the Commission may prescribe and which is deemed necessary to the proper administration of this Act. Such records shall be open to inspection and subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this Act. Information thus obtained or otherwise secured shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) except as the Commission may deem necessary for the proper administration of this Act. Any employee or member of the Commission who violates any provision of this subsection shall be fined not less than Twenty Dollars (\$20), nor more than Two Hundred Dollars (\$200), or imprisoned for not longer than ninety (90) days, or both.

(h) [(f)] Oaths and Witnesses: In the discharge of the duties imposed by this Act, the chairman of an appeal tribunal and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Act. Notwithstanding the provisions of Article 3912e, Vernon's Texas Civil Statutes, or any other provision of the laws of this state, the fees of sheriffs and constables for serving such subpoenas shall be paid by the Commission out of administrative funds, and the Comptroller of Public Accounts shall issue warrants for such fees as directed by the Commission.

(i) [(g)] Subpoenas: In case of contumacy by, or refusal to obey a subpoena issued by a member of the Commission or any duly authorized representative thereof to any person, any County or District Court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before a commissioner, the Commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the Commission, shall be punished by a fine of not less than Two Hundred Dollars (\$200), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) [(h)] Protection Against Self Incrimination: No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission or in obedience to the subpoena of the Commission or any member thereof or any duly authorized representative of the Commission, in any cause or proceeding before the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. No statement whether oral or in writing made to the Commission or its employees in connection with the discharge of their duties under this Act shall ever be made the basis for an action for defamation of character.

(k) [(i)] State-Federal Cooperation: In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor, the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

(l) Funds: Except as otherwise provided in this subsection, all sums of money paid to the Commission under this Act shall be deposited in the State Treasury and may be used only for the administration of this Act. Funds are not required to be deposited if a state or federal law or regulation prohibits deposit in the treasury or if deposit would result in a loss of any federal funds.

(m) Audit: The state auditor shall audit the financial transactions of the Commission during each fiscal year.

(n) Complaint: The Commission shall keep an information file about each complaint filed with the Commission relating to a service rendered by the Commission.

(o) Hearing: If a written complaint is filed with the Commission relating to a service rendered by the Commission, the Commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint.

SECTION 3. Section 12(a), Texas Unemployment Compensation Act (Article 5221b-10, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Texas State Employment Service, as provided for under Act of the Forty-fourth Legislature, Regular Session, Chapter 236, page 552, is hereby transferred to the Commission as a division thereof. The Commission, through such division, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act, and for purposes of performing such duties, as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national

employment system and for cooperation with the States in the promotion of such system and for other purposes," approved June 6, 1933, (48 Stat. 113; U.S.C., Title 29, Section 49(c)) as amended. It shall be the duty of the Commission to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Texas Unemployment Compensation Commission is hereby designated and constituted the agency of this State for the purposes of said Act. ~~[The Director, other officers and employees of the Texas State Employment Service shall be appointed by the Commission in accordance with regulations prescribed by the Director of the United States Employment Service.]~~

SECTION 4. Section 29, Texas Unemployment Compensation Act (Article 5221b-22d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 29. COVERAGE OF STATE EMPLOYEES. (a) The State of Texas hereby elects, with respect to all services performed in the employ of this State or any branch or department thereof or any instrumentality thereof which is not otherwise an employer subject to this Act, to become a reimbursing employer subject to this Act, and all services performed in the employ of this State or of any branch or department or instrumentality thereof shall be deemed to constitute employment. This election does not apply to political subdivisions of this State.

(b) The Commission shall provide an annual statement to each State agency showing the benefits paid by the Commission during the year that are attributable to that agency.

SECTION 5. The requirement under Section 11(e), Texas Unemployment Compensation Act (Article 5221b-9, Vernon's Texas Civil Statutes), that the commission develop a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Section 11(e) that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

SECTION 6. (a) A member of the Texas Employment Commission who holds office on August 31, 1983, is entitled to continue to hold the office for the term for which the member was appointed.

(b) The person employed on the effective date of this Act as the agency administrator is entitled to continue to serve in that capacity at the pleasure of the commission.

SECTION 7. Any state advisory council in existence on the effective date of this Act is abolished. A member of a state advisory council on the effective date of this Act may continue to serve until the commission appoints a new state advisory council or until January 1, 1984, whichever date is first.

SECTION 8. This Act takes effect September 1, 1983.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Doggett, the amendment was tabled by the following vote: Yeas 16, Nays 14.

Yeas: Brooks, Caperton, Doggett, Edwards, Farabee, Henderson, Kothmann, Mauzy, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Glasgow, Harris, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parker, Sharp, Sims, Traeger.

Absent: Sarpalius.

The bill was passed to third reading by the following vote: Yeas 25, Nays 5.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Harris, Howard, Sharp, Traeger.

Absent: Jones.

COMMITTEE SUBSTITUTE HOUSE BILL 885 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 885 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Brown, Howard, Jones, Traeger, Washington.

The bill was read third time and was passed.

HOUSE BILL 1186 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1186, Relating to adoption of a nonsubstantive revision of the statutes relating to civil procedure and civil remedies and liabilities.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **H.B. 1186** by inserting a new Subsection (c) in Section 1.001 of the proposed Civil Code to read as follows:

(c) It is the express intent of the Legislature in passing this Code that there shall be no change of any kind in the substantive law of this state. In the event of any variance between a provision of this Code and the source statute, the source statute shall prevail in the construction of the revised provision.

The amendment was read and was adopted.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1186 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1186** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 35, Granting Mrs. Richard P. Hamric permission to sue the state.

S.C.R. 52, Granting Gwendolyn P. Johnson permission to sue the State of Texas and the Texas Department of Human Resources.

S.C.R. 63, Granting Estefana S. Peters permission to sue the State of Texas and the Texas Department of Human Resources.

S.C.R. 67, Relating to developing rules ensuring the coordination of identification, diagnosis, referral, evaluation, training, and education within a continuum of services to persons with autism or other pervasive developmental disorders.

S.C.R. 69, Relating to developing a written plan and interagency agreement addressing vocational training program standards, vocational program evaluation guidelines, and a continuum of vocational services for persons having autism.

S.C.R. 70, Relating to developing state licensing standards for residential facilities serving adult persons having autism or other pervasive developmental disorders.

S.C.R. 71, Directing the Central Education Agency and the Department of MHMR to develop jointly training program standards and curriculum guidelines for families whose relatives have autism or other pervasive developmental disorders.

S.C.R. 72, Relating to including persons with autism or other pervasive developmental disorders in existing respite care services.

S.C.R. 82, Directing the Texas Department of Human Resources to establish a family violence advisory group to assist the staff and the department in its decision-making and planning efforts regarding the Family Violence Program.

S.C.R. 83, Directing the Texas Department of Human Resources to conduct demonstration projects to assist family violence centers in expanding services responsive to the developmental and psychosocial needs of the children residing in shelters.

S.C.R. 84, Directing the Texas Department of Human Resources to implement program models, designed to improve the delivery of services to victims of family violence in geographically isolated and underserved areas of the state.

S.C.R. 85, Directing the Texas Department of Human Resources to pursue activities designed to heighten public awareness of the magnitude and dynamics of spouse abuse and abuse of the elderly.

S.C.R. 86, Directing the Texas Department of Human Resources to study the feasibility of establishing a statewide, toll-free information, referral, and reporting system to provide assistance to persons involved in spouse or elder abuse.

S.C.R. 87, Directing the Texas Department of Human Resources to examine existing programs for batterers, to analyze the effectiveness of such programs, and to pilot such models, as resources allow, on a demonstration basis.

S.C.R. 88, Directing the Texas Commission on Law Enforcement Officer Standards and Education to organize a subject area on family violence in its mandatory basic law enforcement training for all peace officers.

S.C.R. 89, Directing the Governor's Criminal Justice Division to initiate continuing education programs on family violence for criminal justice professionals.

S.C.R. 93, Granting Ericelda Flores permission to sue the state.

S.C.R. 98, Establishing an interagency Autism Task Force.

S.C.R. 107, Granting Southern Union Gas permission to sue the State.

S.C.R. 115, Granting L. Moody Bennett permission to sue the State of Texas and the General Land Office.

S.C.R. 117, Granting Dan H. Marshall II and Winifred Mildred Marshall Camilleri permission to sue the State of Texas and the State Department of Highways and Public Transportation.

H.C.R. 73, Granting Jonnie J. Groda permission to sue the state.

H.C.R. 122, Granting Eva Jolene Boyd permission to sue the State of Texas and The Texas A&M University.

H.C.R. 198, Memorializing Congress to adopt legislation creating a national commission to study neurofibromatosis.

H.C.R. 248, Granting A-1 Fire & Safety Equipment Co. Inc. permission to sue Titus County Memorial Hospital.

H.C.R. 259, Granting R. A. Knapp, Karol Knapp, R. E. Knapp, and Barbara Knapp permission to sue the State of Texas and the Parks and Wildlife Department.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE CONCURRENT RESOLUTION 134

Senator Jones offered the following resolution:

WHEREAS, House Bill 2134 has been passed by the Senate and returned to the House of Representatives; and

WHEREAS, Further consideration of the bill by the Senate is necessary; now, therefore, be it

RESOLVED by the Senate of the 68th Legislature, the House of Representatives concurring, That the Chief Clerk of the House be hereby authorized to return H.B. 2134 to the Senate for further consideration.

The resolution was read.

On motion of Senator Jones and by unanimous consent, the resolution was considered immediately and was adopted.

(President in Chair)

MOTION TO PLACE HOUSE BILL 701 ON THIRD READING

Senator Glasgow moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 701, Relating to the control of brucellosis and other animal diseases; providing penalties.

The motion was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of the Members present)

Yeas: Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Whitmire.

Nays: Blake, Brooks, Kothmann, Mauzy, Sharp, Traeger, Truan, Uribe, Vale, Washington, Williams.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2340, Relating to fees for support collections and payments to be charged by the clerk of the district courts of Johnson County.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RECESS

On motion of Senator Mauzy, the Senate at 12:05 o'clock p.m. took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.J.R. 19	S.B. 342	H.B. 1602
H.B. 718	S.B. 383	H.B. 1650
H.B. 844	S.B. 389	H.B. 1678
H.B. 861	S.B. 432	H.B. 1685
H.B. 867	S.B. 444	S.J.R. 22
H.B. 877	S.B. 468	S.B. 713
H.B. 896	S.B. 596	S.B. 742
H.B. 897	S.B. 620	S.B. 779
H.B. 957	S.B. 624	S.B. 799
H.B. 1006	S.B. 627	S.B. 801
H.B. 1056	S.B. 643	S.B. 808

H.B. 1068	S.B. 657	S.B. 834
H.B. 1130	S.B. 662	S.B. 838
H.B. 1141	S.B. 710	S.B. 873
H.B. 1174	S.B. 238	S.B. 876
H.B. 1178	H.B. 1304	S.B. 899
H.B. 1203	H.B. 1308	S.B. 920
H.B. 1245	H.B. 1336	S.B. 927
H.B. 1250	H.B. 1345	S.B. 1022
H.B. 1279	H.B. 1361	S.B. 1034
S.B. 7	H.B. 1409	S.B. 1140
S.B. 45	H.B. 1445	S.B. 1167
S.B. 118	H.B. 1474	S.B. 1180
S.B. 120	H.B. 1475	S.B. 1181
S.B. 129	H.B. 1480	S.B. 1208
S.B. 135	H.B. 1505	S.B. 1226
S.B. 230	H.B. 1507	S.B. 1260
S.B. 250	H.B. 1518	S.B. 1298
S.B. 272	H.B. 1599	S.B. 1338
S.B. 273	H.B. 1601	

HOUSE BILL AND RESOLUTIONS ON FIRST READING

The following bill and resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 73, To Committee on Administration.
H.C.R. 122, To Committee on Administration.
H.C.R. 198, To Committee on Administration.
H.C.R. 248, To Committee on Administration.
H.C.R. 259, To Committee on Administration.
H.B. 2340, To Committee on Administration.

SENATE RESOLUTION ON FIRST READING

On motion of Senator Brown and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

S.C.R. 136 by Mauzy Administration
Granting Thelma McCall permission to sue the State.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 124, Directing the Criminal Justice Policy Council to establish a commission on sentencing practices and procedures.

The House has concurred in Senate amendments to H.B. 283 by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MOTION TO PLACE HOUSE BILL 1015 ON SECOND READING

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1015, Relating to firemen's and policemen's civil service; providing a penalty.

Question - Shall the regular order be suspended?

(Senator Caperton in Chair)

AT EASE

The Presiding Officer announced at 1:43 o'clock p.m. that the Senate would Stand At Ease Subject to Call of the Chair.

IN LEGISLATIVE SESSION

The Presiding Officer called the Senate to order as In Legislative Session at 1:46 o'clock p.m.

HOUSE BILL 1015 ON SECOND READING

The Senate resumed consideration of pending business, same being the motion to suspend the regular order to consider **H.B. 1015**.

Question - Shall the regular order be suspended?

On motion of Senator Lyon and by unanimous consent, the motion to suspend regular order was withdrawn.

MOTION TO PLACE HOUSE BILL 1010 ON THIRD READING

Senator Jones asked unanimous consent to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 1010, Relating to authority of the State Board of Barber Examiners and the Texas Cosmetology Commission to contract with each other for inspection and enforcement purposes.

There was objection.

Senator Jones then moved to suspend the regular order of business and take up **H.B. 1010** for consideration at this time.

The motion was lost by the following vote: Yeas 11, Nays 16.

Yeas: Blake, Brooks, Brown, Caperton, Farabee, Howard, Jones, Parker, Sarpalius, Sims, Traeger.

Nays: Doggett, Edwards, Kothmann, Leedom, Lyon, Mauzy, Montford, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Absent: Glasgow, Harris, Henderson, McFarland.

HOUSE BILL 355 ON THIRD READING

Senator Parmer asked unanimous consent to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 355, Relating to the pay of election judges and clerks.

There was objection.

Senator Parmer then moved to suspend the regular order of business and take up **H.B. 355** for consideration at this time.

The motion prevailed by the following vote: Yeas 18, Nays 9.

Yeas: Brooks, Doggett, Edwards, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Caperton, Farabee, Howard, Jones, Leedom, Sarpalius, Sims.

Absent: Glasgow, Harris, Henderson, McFarland.

The bill was read third time and was finally passed by the following vote: Yeas 19, Nays 8.

Yeas: Brooks, Caperton, Doggett, Edwards, Kothmann, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Blake, Brown, Farabee, Howard, Jones, Leedom, Sarpalius, Sims.

Absent: Glasgow, Harris, Henderson, McFarland.

HOUSE BILL 208 ON THIRD READING

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 208, Relating to provision of certain insurance and payment of premiums by counties and other political subdivisions of the state.

The bill was read third time.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 208** by striking subparagraph (c) to Section 1 and substituting a new subparagraph (c) to read as follows:

(c) Each county or political subdivision of the State of Texas is authorized to establish a fund to provide for the life insurance, health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance of its officials, employees and their dependents and retirees, to be known as "Health and Insurance Fund—Employees and Dependents", and there shall be credited to such fund such deductions as may be agreed to in writing by any such official, employee, and retiree, and contributions from the county or political subdivision, from which fund payment shall be authorized only for the purpose of the payment of health, hospital, surgical, and/or medical care of such official, employee, and retirees, and their dependents, and for the payment of premiums on life, group health, accident, accidental death and dismemberment and hospital, surgical, and/or medical expense insurance, for officials, employees, and retirees, and their dependents, under such rules and regulations as may be adopted by the county, or political subdivision, which claims shall be payable under existing laws in like manner as other county or other political subdivision claims. No deduction from the salary of any official, employee, or retiree shall be made except when they shall have consented in writing to such deduction.

The amendment was read and was adopted.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 208**, line 39 to read:

“employees, and retirees”.

The amendment was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed by the following vote: Yeas 22, Nays 5.

Yeas: Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Doggett, Howard, Jones, Sarpalius.

Absent: Harris, Henderson, McFarland, Traeger.

**CONFERENCE COMMITTEE ON SENATE BILL 244
GRANTED PERMISSION TO MEET**

On motion of Senator Washington and by unanimous consent, the Conference Committee on **S.B. 244** was granted permission to meet while the Senate was in Session.

HOUSE BILL 1015 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1015, Relating to firemen's and policemen's civil service; providing a penalty.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 1015** by striking Section 12 of the printed bill and renumbering subsequent sections accordingly.

The amendment was read and was adopted.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1015 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1015** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent: Harris, Henderson, McFarland.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Harris, Henderson, McFarland.

SENATE CONCURRENT RESOLUTION 135 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 135, Creating the Joint Committee on South African Investment.

The resolution was read second time.

Senator Leedom offered the following substitute for the resolution:

Substitute the following for **S.C.R. 135**:

SENATE CONCURRENT RESOLUTION

WHEREAS, South Africa remains under the grip of the apartheid policies imposed by that nation's ruling Nationalist Party; and

WHEREAS, Characterized by a white minority's establishment of political, economic, and social control over a preponderantly nonwhite, and largely black, majority, apartheid is secured by the imposition of discriminatory laws and regulations that equate the rights of inhabitants solely to the color of their skin; and

WHEREAS, This dominance is enforced by the South African government's suppression of any organized opposition groups who seek, even by peaceful exercise of fundamental rights of speech and assembly, to challenge the existing system; and

WHEREAS, Though touted by its proponents as a benevolently segregationist form of self-determination designed to achieve the separate development of South Africa's black, Asian, mixed ancestry, and white cultures, apartheid is in fact a system of white supremacy, the "self-determination" that it mandates for nonwhite cultures being forced upon those cultures from without rather than being a future that they themselves have freely chosen; and

WHEREAS, The system of apartheid imposed by the Nationalist regime is contrary to principles of democratic government and equality of opportunity and justice held dear by all Americans; and

WHEREAS, Because South Africa is a nation heavily dependent on foreign trade and technology, voices in the United States have called for effective American opposition to apartheid via means of economic noncooperation; and

WHEREAS, Measures have been introduced in this legislature seeking to sever investment ties between South Africa and various funds administered by agencies and institutions of the State of Texas; and

WHEREAS, A study of the nature and extent of these investment ties would illuminate the relative support that this state could lend to efforts aimed at the repudiation of South African apartheid; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the 68th Legislature hereby establish a special interim committee, to be known as the Joint Committee on South African Investment; and, be it further

RESOLVED, That the committee investigate, with respect to investment in business and financial enterprises having commercial ties with, or subsidiaries in, South Africa, the following:

- (1) assets of the permanent university fund;
- (2) assets of the veterans land fund;
- (3) assets of the Employees Retirement System of Texas;
- (4) assets of the Teacher Retirement System of Texas;
- (5) assets of the Texas Municipal Retirement System; and
- (6) assets of the Texas County and District Retirement System; and, be it further

RESOLVED, That the committee determine those business and financial enterprises having commercial ties with, or subsidiaries in, South Africa, and notify those included on the portfolios of the six funds and systems that the Legislature of the State of Texas is concerned about the state's investment ties with South Africa and will be studying the impact on the portfolios of withdrawing from investment in those enterprises; and, be it further

RESOLVED, That the committee be composed of six members: three members of the senate, to be appointed by the lieutenant governor, and three members of the house of representatives, to be appointed by the speaker of the house. The committee shall meet initially at the call of the lieutenant governor, the senator having the most seniority to preside pending the election of a chair and vice-chair by the members of the committee. The committee subsequently shall hold meetings and public hearings at the call of the chair; and, be it further

RESOLVED, That the committee be authorized to employ staff to assist in the conduct of the study; and, be it further

RESOLVED, That the committee have the power to issue process to witnesses at any place in the State of Texas, to compel the attendance of such witnesses, and to compel the production of all books, records, documents, and instruments that the committee may require. If necessary to obtain compliance with subpoenas and other process, the committee shall have the power to issue writs of attachment. All process issued by the committee may be addressed to and served by any peace officer of the State of Texas or any of its political subdivisions. The chair shall issue, in the name of the committee, such subpoenas and other process as the committee may direct. In the event that the chair is absent, the vice-chair or any designee of the chair is authorized to issue subpoenas or any other process in the same manner as the chair. Witnesses attending proceedings of the committee under process shall be reimbursed for their actual expenses, not to exceed \$30 per day of attendance, and for their mileage or other travel expenses. The testimony given at any hearing conducted pursuant to this resolution shall be given under oath subject to the penalties of perjury; and, be it further

RESOLVED, That the committee be authorized to request the assistance, where needed in the discharge of its duties, of all state agencies and institutions, and that it be the duty of such state agencies and institutions to assist the committee when requested to do so. The committee shall have the power to inspect the records, documents, and files of every agency and institution of the state, to the extent necessary to the discharge of its duties within the area of its jurisdiction; and, be it further

RESOLVED, That from the contingent expense fund of the senate and the contingent expense fund of the house equally, the members of the committee be reimbursed for their actual expenses incurred in carrying out the provisions of this resolution, and that other necessary expenses of operation be paid from the contingent expense fund of the senate and the contingent expense fund of the house equally; and, be it further

RESOLVED, That the committee make a complete report, including findings and recommendations and drafts of any legislation deemed necessary, to the 69th Legislature when it convenes in January, 1985. Five copies of the completed report shall be filed in the Legislative Reference Library; five copies, with the Texas Legislative Council; two copies, with the secretary of the senate; and two copies, with the chief clerk of the house. Following official distribution of the committee report, all remaining copies shall be deposited with the legislative reference librarian.

The substitute was read and was adopted.

The resolution as substituted was adopted by the following vote: Yeas 28, Nays 0.

Absent: Harris, Henderson, McFarland.

(Senator Vale in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 2436 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2436, Relating to the exemption from the motor fuels tax for gasoline and alcohol mixtures.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Montford asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2436 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2436** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Doggett, Sarpalius, Sims, Washington.

Absent: Harris, Henderson, McFarland.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 5.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Doggett, Montford, Sarpalius, Sims, Washington.

Absent: Harris, Henderson, McFarland.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 101, Granting permission to the Second Annual Young Leadership Workshop to use the Senate and House Chambers August 18-20, 1983.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE CONCURRENT RESOLUTION 247 ON SECOND READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

H.C.R. 247, Directing the Texas Commission on Jail Standards to conduct a general survey of the conditions of the municipal jails.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 137 ON SECOND READING

Senator Jones offered the following resolution:

S.C.R. 137, BE IT RESOLVED, by the Senate of the State of Texas, the House of Representatives concurring, that Senate Rule 96, Sections (a) and (b), be suspended in part, as provided by Senate Rule 96, Section f, and that Sections 9(a) and 9(b), of House Rule 14 be suspended in part, as provided by Section 9(f) of House Rule 14, to enable consideration of, and action on, the following specific matters which may be contained in the Conference Committee Report on **S.B. 179**.

The resolution was read and adopted by unanimous consent on motion of Senator Jones.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 179**

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
May 26, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 179** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached. (General Appropriations Bill—Not printed)

JONES
BROOKS
FARABEE
HOWARD
TRAEGER

On the part of the Senate

PRESNAL
GIBSON
HOLLOWELL
MADLA
RUDD

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MOTION TO PLACE HOUSE BILL 1085 ON SECOND READING

Senator Traeger asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1085, Relating to the creation of the office of budget officer in certain counties.

There was objection.

Senator Traeger then moved to suspend the regular order of business and take up **H.B. 1085** for consideration at this time.

The motion was lost by the following vote: Yeas 9, Nays 20.

Yeas: Brooks, Doggett, Edwards, Harris, Henderson, Leedom, Santiesteban, Sharp, Traeger.

Nays: Blake, Brown, Caperton, Farabee, Glasgow, Howard, Jones, Kothmann, Mauzy, McFarland, Montford, Parmer, Sarpalius, Sims, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Absent: Lyon, Parker.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **H.C.R. 258** today.

SENATE BILL 960 WITH HOUSE AMENDMENT

Senator McFarland called **S.B. 960** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.
Floor Amendment No. 1 - C. Evans

Amend **S.B. 960** by striking all below the enacting clause and substituting the following:

SECTION 1. Title 3A, Revised Statutes, is amended by adding Articles 46i-1 through 46i-9 to read as follows:

Art. 46i-1. **SHORT TITLE.** This Act (Articles 46i-1 through 46i-9) may be cited as the Obstruction to Air Navigation Control Act.

Art. 46i-2. **DEFINITIONS.** In this Act:

(1) "Airport" means a publicly or privately owned airport with a paved runway that is open for use by the general public to licensed aircraft and that does not require prior approval of the owner for use or an airport operated by the armed forces of the United States or by the Texas National Guard. The term does not include a heliport, balloon port, ultralight aircraft port, glider port, or a facility that is used solely for recreational activities.

(2) "Obstruction to airport use" means a structure that, due to its height or location, prevents or hinders safe and efficient use of airspace and proper air navigation required by aircraft in the use of airports in this state, including takeoffs, landings, and flight between airports.

(3) "Structure" means a mobile or permanent object, constructed or installed by man, including but not limited to a building, tower, smokestack, or overhead transmission line.

(4) "Traverse way" means an avenue for surface transportation used by vehicles whose height may create an obstruction to air navigation. The term includes without limitation railways, roads, streets, highways, bridges, rivers, canals, lakes, and channels.

(5) "Paved runway" means a hard surface area that has been prepared for the landing and takeoff of registered aircraft under all weather conditions. The term does not include a surface composed of turf, dirt, or noncompacted materials.

Art. 46i-3. **FUND.** The aviation trust fund is created as a special fund in the state treasury. The Texas Aeronautics Commission shall administer the fund and

may accept donations and contributions for deposit in the fund from private sources and entities. The commission may use the aviation trust fund in the performance of its functions related to aviation safety, including but not limited to the prevention of obstructions to flight.

Art. 46i-4. APPLICATION FOR PERMIT. (a) A person who plans to construct, position, erect, or replace a structure, or increase the height of an existing mobile or permanent structure, must apply to the commission for a permit before beginning the construction, positioning, erection, placement, or alteration if the structure as planned:

(1) will exceed 200 feet in height above ground level at its site;
(2) will penetrate an imaginary surface extending upward and outward from the nearest point of the nearest runway of each airport with at least one paved runway at a slope of 100 horizontal feet to one vertical foot for a distance of 20,000 horizontal feet; or

(3) would be used as a traverse way for mobile objects of a height that would exceed a standard of Subdivisions (1) and (2) of this subsection, if adjusted upward 17 feet for an interstate highway where overcrossings are designed for a minimum of 17 feet vertical distance; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally use the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way, an amount equal to the height of the highest mobile object that would normally traverse it.

(b) Each permit application filed with the commission must be accompanied by a filing fee of \$200 to be retained by the commission to defray administrative expenses. Funds remaining after payment of administrative expenses shall be deposited in the aviation trust fund.

(c) The permit application must contain:

(1) a detailed description and accurate drawing to scale of the proposed structure or alteration;

(2) the proposed location of the structure by county and geographical coordinates in degrees, minutes, and seconds as accurately located by a United States Geological Survey 7.5 Minute Quadratic Map, or its equivalent;

(3) the height of the structure above ground level at the site and above mean sea level;

(4) the name, business address, and telephone number of the applicant, including the names and addresses of corporate officers if the applicant is a corporation, and the names and addresses of all general partners if a partnership; and

(5) the estimated date of completion of the structure.

Art. 46i-5. COMMISSION DETERMINATION. (a) Not later than the 60th day after the application is accepted for filing, the commission shall grant or deny a permit. A political subdivision that owns an airport, the private owner of an airport, or both, if appropriate, and the operator of a military airport that would be affected by a structure for which a permit is required shall be notified of the filing of a permit application and may submit information and participate as a party throughout the permitting process. The commission may accept information from other persons it considers to have a sufficient interest in the application. In determining whether to grant or deny a permit, the commission shall consider:

(1) the height of the existing terrain and structures in the area that might shield the proposed construction or alteration in such a way that the structure would not be an obstruction to air navigation;

(2) the character of flying operations and existing or planned airports in the area;

(3) whether the proposed construction or alteration would cause an increase in the minimum clearance altitude of an established airway or airport maneuvering

area or would cause an increase to instrument approach and landing minimums at an airport;

(4) public and private interests and investments in both the proposed structure and in the airport or airway that might be affected by the structure;

(5) the safety of persons on the ground and in the air; and

(6) any other relevant factors.

(b) A presumption that a proposed structure will create an obstruction to airport use arises if the structure:

(1) will exceed a height of 500 feet above ground level at the site of the object;

(2) will be 200 feet above ground level or above the established airport elevation, whichever is higher, within three nautical miles of the established reference point of an airport with a paved runway or within three nautical miles of an airport approach fix, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport or approach fix up to a maximum height of 500 feet;

(3) will be within a federally designated terminal control area or a terminal object clearance area, including an initial approach segment, a departure area, and a circling approach area, that would require an increase in the minimum obstacle clearance altitude for an approach to, or the instrument landing minimums for, any area airport;

(4) would increase the minimum obstacle clearance altitude within an en route obstacle clearance area, including turn and termination areas, or of a federal airway or approved off-airway route; or

(5) would penetrate the takeoff and landing area of an airport or any imaginary surface established under Federal Aviation Regulation Part 77, Sections 77.25, 77.28, and 77.29.

(c) A mobile object that operates under the control of an airport control tower, under the permission of the airport sponsor, or outside the takeoff or landing area clear zones, for a period not to exceed 60 days, is not an obstruction.

Art. 46i-6. EXEMPTIONS. This Act does not apply to:

(1) a tower or other structure for which a Federal Communications Commission construction permit, license, or authorization is required;

(2) a structure that before September 1, 1984, received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulations, as amended (14 Code of Federal Regulations, Part 77);

(3) a structure located within the boundaries of a municipality, city, town, village, or county that has enacted airport zoning or other ordinances regulating obstructions to airport use in any part of the municipality, city, town, village, or county;

(4) a structure located on an airport with the airport owner's written consent;

(5) a structure the construction of which was commenced before September 1, 1984; or

(6) a structure within or beneath the terminal control area of an airport that is located in more than one county and is operated by a board composed of city officials of two or more cities.

Art. 46i-7. PERMITS. If the commission determines that the public interest will be served and that the proposed construction or alteration will not be an obstruction to air navigation, the commission shall grant a permit for the proposed construction or alteration. In granting a permit, the commission may require lighting or other marking of the structure that it determines to be reasonably necessary for safe air navigation.

Art. 46i-8. HEARINGS; APPEALS; ENFORCEMENT. (a) If a permit application is denied by the commission, the commission shall notify the applicant of the denial by certified mail, return receipt requested, at the address shown in the

application not later than the 60th day after the day the application is accepted for filing. The determination of existence of an obstruction to air navigation is final 30 days after the notice required under this paragraph is mailed, unless the applicant files a written request for a public hearing not later than the 30th day after the day the notice is mailed. The commission shall include in the notice of denial the reasons for the denial and a copy of all documentation on file concerning the application. On receipt of a request for a hearing the commission shall set a date for hearing and notify all interested parties of the hearing. The hearing and any appeal shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) If the commission learns or has reasonable grounds to believe that any person is positioning, erecting, or altering a structure subject to the provisions of this Act for which an application for a permit has not been filed, it may on its own motion issue an order to the person to appear before the commission and show cause why an application for a permit to position, erect, or alter the structure need not be obtained. The order must require the person to cease construction and preparation of the structure pending determination of the need for a permit by the commission. A date for a hearing shall be set out in the order.

(c) In addition to any other remedy, the commission may institute in a district court in Travis County an action to prevent, restrain, correct, or abate a violation of this Act or of a rule adopted or order issued under this Act. The court may grant the necessary relief by way of injunction or otherwise.

(d) A person who violates this Act or a rule adopted under this Act is subject to a civil penalty not to exceed \$500 for each day of the violation. The penalty may be recovered in a court of competent jurisdiction in the county in which the violation occurs or in a district court of Travis County. Suit for the penalty may be instituted and conducted by the attorney general or by the county or district attorney in the county in which the violation occurs. On violation of this Act, of any rule adopted under this Act, or of an order of the commission, the district court of the county in which the violation occurs may issue an injunction to prevent further violation. Bond is not required if the relief is sought by the commission, the attorney general, or a district or county attorney.

Art. 46i-9. RULEMAKING AUTHORITY; FORMS. (a) The commission shall adopt rules for the administration and enforcement of this Act.

(b) The commission shall prescribe and furnish the forms necessary for the administration of this Act.

SECTION 2. A person is not required to obtain a permit under this Act until September 1, 1984.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator McFarland moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 960 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators McFarland, Chairman; Traeger, Howard, Sims and Sharp.

COMMITTEE SUBSTITUTE HOUSE BILL 2008 ON SECOND READING

Senator Whitmire asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 2008, Relating to revision of the criminal laws relating to the offenses of rape, aggravated rape, rape of a child, sexual abuse, aggravated sexual abuse, and sexual abuse of a child; redefining those offenses as assaultive offenses and revising the elements of, penalties for, and period of limitation applicable to those offenses; revising the elements of the offense of capital murder to include murder committed in the course of committing aggravated sexual assault; and revising certain terms in the assault and aggravated assault provisions relating to the gender of the actor or victim.

There was objection.

Senator Whitmire then moved to suspend the regular order of business and take up **C.S.H.B. 2008** for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Glasgow.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2008 ON THIRD READING

Senator Whitmire moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2008** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Whitmire, Williams.

Nays: Glasgow, Washington.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RESOLUTION 706

Senator Howard offered the following resolution:

BE IT RESOLVED by the Texas Senate, That Sections (a) and (b) of Senate Rule 96 is hereby suspended in part in order that the conference committee on **H.B. 2154** may make appropriate changes to incorporate into **H.B. 2154** the language deleted from **H.B. 593** that prohibited members of the Railroad Commission of Texas from having interest in any railroad; and, be it further

RESOLVED, That the specific limitation suspended by this resolution is the limitation that prohibits a conference committee from adding text on any matter that is not in disagreement; and, be it further

RESOLVED, That this suspension of the limitation is being requested for the reason that the conflict of interest provision should be restored.

The resolution was read.

The motion of Senator Howard and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE BILL 2383 ON SECOND READING

On motion of Senator Sharp and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2383, Relating to the relinquishment and release of certain conditions of use, encumbrances, easements, requirements, reservations, trusts, and limitations, concerning certain submerged land in Calhoun County, Texas, already conveyed to city of Port Lavaca, Texas, by patent dated September 29, 1921, of record in Volume 11, Page 517, Deed Records of Calhoun County, Texas.

The bill was read second time and was passed to third reading.

HOUSE BILL 2383 ON THIRD READING

Senator Sharp moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MOTION TO PLACE HOUSE BILL 1321 ON SECOND READING

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1321, Relating to penalties for violation of shrimping laws.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **H.B. 1321** for consideration at this time.

The motion was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of the Members present)

Yeas: Blake, Brown, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sims, Traeger, Uribe, Whitmire.

Nays: Brooks, Caperton, Doggett, Mauzy, Parker, Parmer, Sharp, Truan, Vale, Washington, Williams.

HOUSE BILL 2087 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2087, Relating to the application of the Health Facilities Development Act to certain types of health facilities for adults, and to costs incurred by a health facility.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 2087** by deleting the following language on line 66 and 67 of the printed version of the bill:

“, except that no facility organized for profit is included in this subdivision”

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 2087 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2087** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Jones, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 179** by the following vote: Yeas 23, Nays 8.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Santiesteban, Sharp, Sims, Traeger, Vale, Whitmire, Williams.

Nays: Doggett, Lyon, Mauzy, Parmer, Sarpalius, Truan, Uribe, Washington.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 179 ADOPTED**

Senator Jones called from the President's table the Conference Committee Report on **S.B. 179**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1983.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 23, Nays 8.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, McFarland, Montford, Parker, Santiesteban, Sharp, Sims, Traeger, Vale, Whitmire, Williams.

Nays: Doggett, Lyon, Mauzy, Parmer, Sarpalius, Truan, Uribe, Washington.

REASON FOR VOTE

Legislature of the State of Texas
Senate
Austin, Texas

May 27, 1983

I would like to explain my reasons for voting for S.C.R. 137 on May 27, 1983. I voted for S.C.R. 137 based on my understanding of the representations and the legislative intent set forth in the letter, dated May 27, 1983, to me from Thomas J. Huebner, Director of Claims, Comptroller of Public Accounts, State of Texas. I request that this letter, which I requested be written with regard to S.C.R. 137, be filed with my reasons for having voted for S.C.R. 137 in the Senate Journal.

WASHINGTON

Comptroller of Public Accounts
State of Texas
Austin, Texas 78774

May 27, 1983

Dear Senator Washington:

In response to your request for an opinion from this office, please be advised that adding the language quoted in your letter to the Comptroller's Judiciary section of the appropriations bill would prevent the payment of any claim for expenses incurred by Walker County in the prosecution of an offense under this provision prior to September 1, 1983.

The expenditure of any funds under the appropriation to reimburse Walker County is, of course, contingent upon the enactment of H.B. 382 or some other statute that would satisfy the "pre-existing law" requirement in Article 3, Section 44 of the Texas Constitution.

Sincerely,

/s/Thomas J. Huebner
Director of Claims

COMMITTEE SUBSTITUTE HOUSE BILL 1701 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1701, Relating to the management and investment of certain state funds.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1701 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1701 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

- The bill was read third time and was passed.

MOTION TO PLACE HOUSE BILL 1585 ON SECOND READING

Senator Howard moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1585, Relating to the jurisdiction, powers, and duties of and the enforcement by the Texas Department of Water Resources; providing criminal offenses; and providing penalties.

The motion was lost by the following vote: Yeas 15, Nays 16.

Yeas: Blake, Brown, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Leedom, McFarland, Montford, Sarpalius, Sharp, Sims, Traeger.

Nays: Brooks, Caperton, Doggett, Edwards, Kothmann, Lyon, Mauzy, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire, Williams.

SENATE RULE 103 SUSPENDED

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider the following bills and resolutions today.

H.B. 2340

H.C.R. 73

H.C.R. 99

H.C.R. 122

H.C.R. 198

H.C.R. 248

H.C.R. 236

H.C.R. 259

H.C.R. 268

S.C.R. 114

S.C.R. 133

S.C.R. 136

S.R. 628

S.R. 623

S.R. 691

ADMINISTRATION COMMITTEE GRANTED PERMISSION TO MEET

On motion of Senator Blake and by unanimous consent, the Administration Committee was granted permission to meet at 4:15 o'clock today.

**VOTE ON FINAL PASSAGE OF
HOUSE BILL 2134 RECONSIDERED**

On motion of Senator Jones and by unanimous consent, the vote by which **H.B. 2134** was finally passed was reconsidered.

Question - Shall **H.B. 2134** be finally passed?

CONFERENCE COMMITTEE DISCHARGED

On motion of Senator Lyon and by unanimous consent, the Conference Committee on **S.B. 1023** was discharged.

Senator Lyon moved to concur in the House amendments to **S.B. 1023**.

The motion to concur prevailed.

RECORD OF VOTES

Senators Brooks and Truan asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 244**

Senator Washington submitted the following Conference Committee Report:

Austin, Texas
May 27, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 244** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WASHINGTON
MAUZY
VALE

On the part of the Senate

TEJEDA
MADLA
TURNER

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the mandatory use of interest earned on certain client funds held by attorneys, law firms, or professional corporations engaged in the practice of law to provide legal services to the indigent in civil matters; to the deposit of the funds; to the creation and administration of a program by the Texas Supreme Court to carry out the purposes of Article 317a, Revised Statutes, and to the powers and duties of the court; to the formation, operation, powers, duties, and liability of a nonprofit corporation to be the recipient and disbursing agent for interest earned on client funds; and to liability of depository institutions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 14, Revised Statutes, is amended by adding Article 317a to read as follows:

Art. 317a. INTEREST EARNED ON CLIENT FUNDS HELD BY ATTORNEYS

Sec. 1. SHORT TITLE. This article may be cited as the Texas Equal Access to Justice Act.

Sec. 2. FINDINGS; PURPOSE. The legislature finds that:

(1) on certain client funds held by attorneys, interest income cannot reasonably be earned to benefit individual clients for whom the funds are held;

(2) income can be earned on those client funds pursuant to the program provided for in this article, and that income should be used to provide additional legal services to the indigent in civil matters, to improve the administration of justice, and for other law-related programs that benefit the public;

(3) the Supreme Court of Texas is the proper and appropriate body, through the adoption of rules as required by this article, to create and administer or cause to be created and administered a program to carry out the purposes of this article; and

(4) this article is adopted in furtherance of the police powers of the legislature to meet a public need.

Sec. 3. RULES. The Supreme Court of Texas shall promulgate rules, consistent with the provisions of this article, that are necessary and appropriate to carry out the purposes of this article and conform the program created as provided by this article to applicable statutes, regulations, and rulings. The rules, which may be amended or revoked by the supreme court from time to time as it deems necessary to carry out this article, shall provide for:

(1) the formation of a corporation, incorporated without members under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) to be the recipient of and disbursing agent for interest earned on client funds as provided by this article;

(2) the operation of the nonprofit corporation and the program created as provided by this article, including the provisions to be contained in the articles of incorporation and bylaws of the corporation;

(3) the designation of persons to serve as directors of the corporation;

(4) definitions of the client funds subject to Section 5 of this article;

(5) exemptions from Section 5 of this article when deemed by the court to be appropriate;

(6) provisions specifying the types of financial institutions eligible for the deposit of the funds, the types of organizations and programs eligible to receive funds from the nonprofit corporation, and the persons and types of matters and cases eligible to receive legal services funded by grants from the nonprofit corporation except that the following are not eligible to receive funds from the nonprofit corporation:

(A) a person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes); or

(B) a legal aid society not certified by the Supreme Court of Texas; and

(7) provisions relating to recordkeeping, reporting, and audits of the nonprofit corporation, depository institutions, and the organizations and programs receiving funds from the nonprofit corporation.

Sec. 4. PROVISIONS RELATING TO THE NONPROFIT CORPORATION. (a) The nonprofit corporation authorized by this article shall be organized in such a manner as to be exempt from federal income taxation under the Internal Revenue Code of 1954 or any subsequent United States internal revenue law.

(b) The exclusive purposes of the nonprofit corporation authorized by this article shall be:

(1) to grant funds received by it as provided in this article to organizations that will use the funds exclusively to provide legal services to the indigent in civil matters;

(2) to improve the administration of justice; and

(3) to provide for other law-related programs for exclusively public purposes and public benefit as are specifically approved from time to time by the supreme court.

(c) The nonprofit corporation authorized by this article shall be governed by a board of directors composed of the chief justice of the supreme court, the president of the State Bar of Texas, and any other persons as may be designated by the supreme court. At least one-third of the members of the board of directors may not be attorneys and may not have other than as consumers a financial interest in the practice of law. It is the intent of the legislature that the membership of the board of directors reflect the historical and cultural diversity of the inhabitants of this state; therefore, appointments to the board should be made without discrimination based on the race, creed, sex, religion, national origin, or geographical distribution of the appointees.

(d) Funds granted by the nonprofit corporation authorized by this article to organizations to provide legal services to the indigent in civil matters may not be

used for any case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, might reasonably be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. This subsection does not apply if it is determined, pursuant to rules adopted by the supreme court, that adequate legal services would otherwise be unavailable to the indigent person in the case or matter.

(e) Neither the nonprofit corporation authorized by this article nor any organization or program to which it grants funds may take an action or require an attorney to take an action in violation of the Code of Professional Responsibility (Section 8, Article XII, Rules Governing the State Bar of Texas) or in violation of any other code of professional responsibility adopted by this state for attorneys.

(f) The nonprofit corporation authorized by this article shall require, as a condition to the granting of funds to any organization or program, that adequate provision be made in accordance with rules adopted by the supreme court for reports as to the actual use of funds and for an audit of the reports.

(g) The records of the nonprofit corporation authorized by this article, including applications for funds, whether or not granted, shall be open for public inspection in accordance with rules the supreme court may promulgate.

(h) The nonprofit corporation authorized by this article may expend funds for administrative costs of the program, including any costs incurred after the adoption of this article, and may provide a reasonable reserve for administrative costs.

Sec. 5. DEPOSIT OF CERTAIN CLIENT FUNDS. (a) An attorney, law firm, or professional corporation engaged in the practice of law receiving in the course of the practice of law in this state client funds that are nominal in amount or are reasonably anticipated to be held for a short period of time shall establish and maintain a separate interest-bearing account at a financial institution and shall deposit in the account all those client funds. All the client funds may be deposited in a single unsegregated account. The interest earned on the account shall be paid in accordance with and used for the purposes set forth in this article and the rules adopted by the supreme court. Funds to be deposited under this article do not include those funds evidenced by a financial institution instrument, such as a draft, until the instrument is fully credited to the financial institution in which the account is maintained.

(b) This article does not prohibit an attorney, law firm, or professional corporation engaged in the practice of law from establishing one or more interest-bearing accounts or other investments permitted by the Code of Professional Responsibility (Section 8, Article XII, Rules Governing the State Bar of Texas) with the interest or dividends earned on the accounts or investments payable as directed by clients for whom funds are not deposited in accordance with Subsection (a) of this section.

Sec. 6. DEPOSITORIES. (a) The interest-bearing account required by Section 5 of this article shall be established with any financial institution meeting the requirements set forth in the rules adopted by the supreme court.

(b) The attorney, law firm, or professional corporation establishing the interest-bearing account shall attempt in good faith to obtain a rate of interest payable on the account not less than the rate paid by the depository institution to other depositors with accounts of similar type. A higher rate offered by the institution on deposits meeting certain time requirements or minimum amounts, such as those offered in the form of certificates of deposit, may be obtained if there is no impairment of the right to withdraw or transfer principal immediately, other than the statutory notification requirements generally applicable to those accounts, even though interest may be lost because of the withdrawal or transfer.

(c) The depository institution shall be directed by the attorney, law firm, or professional corporation establishing the account:

(1) to remit, at least quarterly, interest earned in the account, less reasonable service charges, to the nonprofit corporation authorized by this article;

(2) to transmit to the depository attorney, law firm, or professional corporation and to the nonprofit corporation authorized by this article with each remittance a statement showing the name of the attorney, law firm, or professional corporation with respect to which the remittance is sent, the rate of interest or effective yield, the amount of service charges deducted, if any, and all other information given to the depository institutions and other customers having similar type accounts.

Sec. 7. ATTORNEY LIABILITY. Nothing in this article affects the obligations of attorneys, law firms, or professional corporations engaged in the practice of law with respect to client funds other than client funds reasonably determined to be "nominal in amount" or reasonably anticipated to be held for a "short period of time," as those terms are defined by the rules adopted by the supreme court. An attorney, law firm, or professional corporation is not liable in determining which funds are nominal in amount or on deposit for a short period of time if the determination is made in good faith in accordance with the rules.

Sec. 8. LIABILITY OF NONPROFIT CORPORATION. If client funds that are neither nominal in amount nor on deposit for a short period of time are deposited under Subsection (a) of Section 5 of this article, the liability of the nonprofit corporation authorized by this article may not exceed the amount of interest attributable to client funds actually paid by the depository to the nonprofit corporation.

Sec. 9. LIABILITY OF DEPOSITORY INSTITUTION. A depository institution is not liable for any acts or omissions which it, in good faith, does or fails to do in the belief that it is acting in compliance with this Act or the rules promulgated thereunder.

SECTION 2. In connection with the promulgation of the rules required by Article 317a, Revised Statutes, as added by this Act, the Supreme Court of Texas may, in addition to any other actions it deems desirable, appoint a commission or utilize the services of the State Bar of Texas to:

- (1) prepare and publish proposed rules;
- (2) distribute the proposed rules with notices of public hearings to all interested parties, including attorneys, financial institutions, and potential recipients of funds from the nonprofit corporation authorized by Article 317a, Revised Statutes; and
- (3) hold public hearings at which interested parties are given an opportunity to present oral or written testimony and comments regarding the rules.

SECTION 3. The Supreme Court of Texas shall adopt the rules required by Article 317a, Revised Statutes, as added by this Act, not later than the first day of the first month that begins more than 90 days after a ruling is obtained from the national office of the United States Internal Revenue Service to the effect that the program provided for in this Act will not result in taxable income to clients on whose funds the interest included in the program is earned. The Supreme Court of Texas shall cause an application for the ruling to be made promptly after passage of this Act.

SECTION 4. Sections 5 and 6, Article 317a, Revised Statutes, as added by this Act, take effect the first day of the first month that begins more than 90 days after the rules required by Article 317a, Revised Statutes, have been adopted by the Supreme Court of Texas.

SECTION 5. The initial distribution of funds under this Act shall be made at a time when, in the determination of the board of directors of the nonprofit corporation authorized by Article 317a, Revised Statutes, as added by this Act, there are sufficient funds to provide an adequate distribution.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 256, Granting Percor Incorporated permission to sue the State of Texas and the University of Texas System.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read the first time and referred to the Committee indicated:

H.C.R. 256, To Committee on Administration.

SENATE RULE 103 SUSPENDED

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **H.C.R. 256** today.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on **H.B. 1473** by a record vote of 135 Ayes, 5 Noes, and 2 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 521 ON SECOND READING

Senator Uribe moved to suspend the regular order of business to take up for consideration at this time:

H.B. 521, Relating to application of the workers' compensation law to farm and ranch laborers.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Sarpalius, Sims, Traeger.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 521 as follows:

1. By adding the words "to individuals who were not members of his immediate family" after the words "(\$50,000) or less";
2. By adding the words "who were not members of his immediate family" after the words "(12) or fewer employees" and before the comma.

The amendment was read and was adopted.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 521, lines 19 and 20 to read as follows:

"Seventy-five Thousand Dollars (\$75,000) or less or who employed fifteen (15) or fewer employees."

The amendment was read.

On motion of Senator Doggett, the amendment was tabled by the following vote: Yeas 17, Nays 13.

Yeas: Blake, Brooks, Caperton, Doggett, Harris, Kothmann, Lyon, Mauzy, McFarland, Parmer, Santiesteban, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Edwards, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Parker, Sarpalius, Sharp, Sims, Traeger.

Absent: Henderson.

Question - Shall the bill as amended be passed to third reading?

(Senator Washington in Chair)

(Senator Howard occupied the Chair during discussion of the passage of H.B. 521 to third reading.)

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on S.B. 1 by a vote of 118 Ayes, 23 Noes and 6 Present-not voting.

The House has refused to concur in Senate amendments to H.B. 885 and has requested the appointment of a Conference Committee to consider the differences

between the two Houses. House Conferees: Criss, Chairman; Short, Saunders, Hall of Denton, Leonard.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Sharp in Chair)

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 134, Recalling **H.B. 2134** for further Senate consideration.

H.B. 2329, Relating to the creation of the County Court at Law No. 2 of Ector County.

H.B. 2384, Relating to supplemental compensation of the justices of the Eleventh Supreme Judicial District.

H.B. 2429, Relating to the Rio Grande Valley Municipal Water Authority.

H.B. 2448, Relating to the establishment of a juvenile board in Fisher, Mitchell, and Nolan counties.

S.B. 161, Relating to public disclosure of certain information obtained by institutions of higher education.

S.B. 369, Relating to purchase of land for a highway right-of-way. (With amendment)

S.B. 380, Relating to the selection of grand jurors.

S.B. 621, Relating to the continuance of public hearings.

S.B. 631, Relating to the creation, jurisdiction, administration, terms, and procedures of the County Court at Law No. 3 of Montgomery County; fixing the qualifications of the judge and providing for his election or appointment.

S.B. 651, Relating to offenses against public administration and offenses involving the abuse of office or employment, including theft, by a public servant. (With amendments)

S.B. 659, Relating to the sale of certain state-owned real property in Grayson County, Texas.

S.B. 733, Relating to payment for construction work by municipal utility districts. (With amendment)

S.B. 757, Relating to the appointment, qualifications, compensation, and assignment of retired and former district judges to serve as senior judges on district courts and to retirement system membership contributions and credit of the judges. (With amendment)

S.B. 791, Relating to the appointment of a local registrar of births and deaths, and to reports, transcripts, and records of vital statistics.

S.B. 827, Relating to immunity from certain liability to persons providing information involving known or suspected fraudulent insurance and reinsurance transactions.

S.B. 875, Relating to the creation and jurisdiction of the County Court at Law No. 2 of Taylor County; fixing terms; providing for the appointment and election, term of office, qualifications, power and compensation of the judge.

S.B. 891, Relating to a medical services fee at Texas Tech University.

S.B. 926, Relating to recovery of costs and attorney's fees in defense of a frivolous claim raised by a state agency.

S.B. 964, Relating to the measurement of distances in connection with the sale of alcoholic beverages near a public school, church, or public hospital, and to notice of an application for a license or permit to sell alcoholic beverages. (With amendments)

S.B. 1040, Relating to licensing and regulation of insurance solicitors and agents; giving the State Board of Insurance certain powers and duties. (With amendment)

S.B. 1166, Relating to management of Tarleton State University and to use of certain donated funds.

S.B. 1184, Relating to recovery of actual costs and attorney's fees by the attorney general in charitable trust suits and to the venue of such charitable trust suits.

S.B. 1185, Relating to fees to which the attorney general is entitled.

S.B. 1273, Relating to the creation, jurisdiction, judges, facilities, personnel, and practice and procedures of municipal courts of record in the city of Odessa; providing for appeals and the effect of ruling of the appellate court. (With amendments)

S.B. 1281, Relating to the county courts at law in El Paso County and their jurisdiction and administration; providing the qualifications of judges and for their compensation; providing for juries and procedures for jury trials. (With amendment)

S.B. 1286, Relating to the creation, judges, jurisdiction, personnel, and powers and duties of the County Court of Jefferson County at Law No. 3 and to the jurisdiction, judges, personnel, and powers of the County Courts of Jefferson County Nos. 1 and 2.

S.B. 1308, Relating to the authority of the governor to appoint an agent to sign for the governor or use the governor's signature on certain documents relating to criminal justice.

S.B. 1318, Relating to the place that the Court of Appeals for the Third Supreme Judicial District transacts business.

S.B. 1323, Relating to fees for student centers at the component institutions of the University System of South Texas.

S.B. 1330, Relating to establishment, membership, powers, duties, compensation, staff and financing of a juvenile board for Hansford County.

C.S.S.B. 1335, Relating to the creation of the County Court at Law No. 4 of Nueces County.

S.B. 1348, Relating to the powers, duties, financing, and territory of the Red River Authority and to the interest rate on bonds issued by the authority and to contracts between other persons, including public agencies, and the authority.

S.B. 1350, Relating to the creation, administration, powers, duties, operation, expansion, and financing of the New Ulm Municipal Utility District.

S.B. 1351, Relating to the validation of the adoption of a municipal home-rule charter and of certain governmental acts and proceedings under such a charter.

S.B. 1352, Relating to the appointment, duties, and staff of court administrators and their compensation, and equipment and appointment of masters for certain courts in Jefferson County, and appointment of witness coordinators as peace officers. (With amendment)

S.B. 1356, Relating to the dissolution of the Northwest Harris County Municipal Utility District No. 7 and to certain powers and duties of the board of directors of the district.

S.B. 1363, Creating and establishing a conservation and reclamation district to be known as Harris County Municipal Utility District No. 233. (With amendment)

S.B. 1366, Relating to the establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in each of the counties of Brooks, Kenedy, Kleberg, and Willacy; authorizing appointment of advisory councils.

S.B. 1370, Relating to the selection of a private architect/engineer and the appointment of a director of facilities planning and construction. (With amendment)

S.B. 1375, Relating to the establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Chambers County and to the appointment of an advisory council.

S.B. 1379, Relating to establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Garza County.

S.B. 1388, Relating to a merger of a home-rule city's separately owned municipal and rural electric systems.

S.B. 1395, Relating to the establishment, membership, compensation, powers and duties, staff, and financing of a juvenile board in Lynn County.

S.B. 1397, Relating to a child support collection service fee and a fee assessed as costs in certain contempt actions in Nueces County.

S.B. 1398, Relating to creation, directorship, administration, powers, duties, functions, operations, and financing of the Argyle Municipal Utility District in Denton County.

S.B. 1408, Relating to allowing an incorporated city or town or other political subdivision of the state to issue a permit to a nonprofit organization for the construction of apartment houses for the low-income elderly without requiring metering.

S.B. 1409, Relating to the composition and compensation of the Nueces County Juvenile Board.

S.B. 1426, Relating to the establishment, membership, compensation, personnel, powers and duties, and financing of a juvenile board in Terry County.

S.B. 1427, Relating to establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Yoakum County.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Jones occupied the Chair during discussion of passage of **H.B. 521** to third reading.)

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 117, Relating to procedures for the administration, disbursement, and termination of block grant funds and procedures for hearings and dissemination of information; providing for audits, handling of complaints, and judicial review. (With amendments)

S.B. 480, Relating to apportionment of the state into congressional districts and to terms of office of members of the State Board of Education. (As substituted)

S.B. 762, Relating to certain protected and prohibited political activities of state employees and to termination of employment for a violation of any prohibited activity. (With amendment)

S.B. 895, Relating to the protection and conservation of fresh water in connection with activities associated with the exploration, recovery, and development of oil and gas or geothermal resources, to rules adopted in connection with saltwater hauling. (With amendments)

S.B. 985, Relating to the time periods for filing sales and use taxes, and the prepayment discount for paying sales and use taxes. (As substituted)

S.B. 986, Relating to the due dates of the public utilities gross receipts assessment and the interest rate on delinquent assessments; amending Section 79, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes).

S.B. 987, Relating to the filing of returns and payment of estimated insurance gross premium taxes; giving the State Board of Insurance certain rulemaking authority. (As substituted)

S.B. 988, Relating to the due dates for certain taxes, reports, estimated taxes and to forfeitures. (As substituted)

C.S.S.B. 1236, Relating to creation, administration, and operation of a loan assistance program for water conservation, water development, water quality enhancement, or flood control and drainage and a bond insurance program for water conservation, water development, or water quality enhancement. (With amendments)

S.B. 1241, Relating to certain definitions, to prevention and control of spills of hazardous substances, to coordination of the state response effort and cooperation of state agencies, to certain powers and duties of the Texas Water Development Board and the Texas Department of Water Resources and its

executive director, to creation of the Texas Spill Response Fund. (With amendments)

The House has motioned to table **S.B. 879** by Brooks which prevailed by a non-record vote.

The House refused to concur in Senate amendments to **H.B. 2251** and has requested the appointment of a Conference Committee to consider the differences between the two houses. House Conferees: Delco, Chairman; Cary, Collazo, Watson and Laney.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 521 ON SECOND READING

The Senate resumed consideration of pending business, the same being **H.B. 521** on its second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

PREVIOUS QUESTION ORDERED

Senator Uribe moved the Previous Question on all subsequent amendments and the passage of the bill to third reading.

The Previous Question was seconded by Senators Doggett, Brooks, Mauzy, Caperton and Blake.

The Previous Question was ordered by the following vote: Yeas 16, Nays 13.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Harris, Henderson, Kothmann, Mauzy, McFarland, Parmer, Santiesteban, Truan, Uribe, Vale, Williams.

Nays: Brown, Farabee, Glasgow, Howard, Jones, Leedom, Lyon, Montford, Parker, Sarpalius, Sharp, Sims, Traeger.

Absent: Washington, Whitmire.

MOTION TO ADJOURN

Senator Leedom at 11:45 o'clock p.m. moved the Senate adjourn until 9:30 o'clock a.m. tomorrow.

The motion was lost by the following vote: Yeas 11, Nays 18.

Yeas: Brown, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Sarpalius, Sharp, Sims, Traeger.

Nays: Blake, Brooks, Caperton, Doggett, Edwards, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Parker, Parmer, Santiesteban, Truan, Uribe, Vale, Williams.

Absent: Washington, Whitmire.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2154

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
May 27, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2154** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LYON
EDWARDS
FARABEE

On the part of the Senate

TURNER
LUNA
CEVERHA

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 149**

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas
May 27, 1983

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 149** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HENDERSON
HOWARD
CAPERTON
McFARLAND
EDWARDS

On the part of the Senate

MESSER
RUSSELL
WRIGHT
COODY

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the operation and regulation of state savings and loan associations and the savings and loan department, to the continuation of the office of the savings and loan commissioner, and to his powers and duties; prescribing procedures for acquiring voting securities or control of an association; giving an association benefits of provisions of Chapter 4, Business & Commerce Code; defining offenses and providing enforcement procedures and penalties; amending Article 5, Chapter II, The Texas Banking Code of 1943, by amending Subsections (h) and (j) and adding Subsections (k) through (q); and amending the Texas Savings and Loan Act by amending Sections 2.02, 2.07, 5.16, 11.05, and 11.20; by adding Sections 2.15 and 11.21; and by repealing Section 11.15 (Articles 342-205 and 852a, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections (h) and (j), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), are amended to read as follows:

"(h) The Savings and Loan Commissioner and the Savings and Loan Section of the Finance Commission shall establish reasonable and necessary fees for the administration of the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes). The Savings and Loan Commissioner shall collect all fees, penalties, charges and revenues required to be paid by savings and loan associations and shall from time to time as directed by the Finance Commission submit to such Commission a full and complete report of the receipts and expenditures of the Savings and Loan Department, and the Finance Commission may from time to time examine the financial records of the Savings and Loan Department or cause them to be examined. In addition, the State Auditor shall audit the financial transactions of the Savings and Loan Department each fiscal year ~~[shall be audited from time to time by the State Auditor in the same manner as other State departments]~~, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Savings and Loan Department. Notwithstanding anything to the contrary contained in any other law of this State, beginning September 1, 1985, all sums of money paid to the Savings and Loan Department from all sources shall be deposited in the State Treasury to the credit of a special fund to be known as the Savings and Loan Department Expense Fund and may be used only for the expenses incurred by the Savings and Loan Department ~~[fees, penalties, charges and revenues collected by the Savings and Loan Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties, charges and revenues shall ever be paid into the General Revenue Fund of this State]~~. All expenses incurred by the Savings and Loan Department shall be paid only from such fund ~~[fees, penalties, charges and revenues, and no such expense shall ever be a charge against the funds of this State or the funds of the Banking Department. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties, charges and revenues of the Savings and Loan Department shall be expended; and the Finance Commission shall, as of December 31, 1961, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Savings and Loan Department for each calendar year and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to Savings and Loan Associations]~~. The Finance Commission shall promulgate and adopt such rules and regulations as may be necessary to coordinate the operation of the Savings and Loan Department with the operation of the Banking Department."

"(j) The office of Savings and Loan Commissioner is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished effective September 1, 1995 ~~[1983]~~."

SECTION 2. Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), is amended by adding Sections (k) through (q) to read as follows:

"(k) An officer or employee of the Savings and Loan Department may not be an officer, employee, or paid consultant of a trade association in the savings and loan industry.

"(l) The Savings and Loan Department is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure

and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

"(m) The Savings and Loan Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

"(n) The Savings and Loan Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Savings and Loan Department employees must be based on the system established under this section.

"(o) The Savings and Loan Commissioner shall prepare information of consumer interest describing the regulatory functions of the Savings and Loan Department and describing the department's procedures by which consumer complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

"(p) The Savings and Loan Department shall keep an information file about each complaint relating to a licensee filed with the department.

"(q) If a written complaint is filed with the Savings and Loan Department relating to a licensee, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation."

SECTION 3. Section 2.02, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.02. PERMANENT RESERVE FUND STOCK. The charter of an association may provide for the issuance of Capital [~~Permanent Reserve Fund~~] Stock in the form of common or preferred stock. No other form or type of stock or shares may be issued. Such Capital [~~Permanent Reserve Fund~~] Stock, when issued, may not be retired or withdrawn except as hereinafter provided, until after all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts. Such stock must be fully paid for in cash in advance of issuance and the association may not make any loans against the shares of such stock. Shares of such stock may be issued with par value of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100). With the prior written approval of the Commissioner as to the number of shares to be issued, the bylaws of an association may provide that its Capital [~~Permanent Reserve Fund~~] Stock may be issued with no par value. An association authorized to issue such stock must have at all times issued and outstanding stock with a value on its books of at least Twenty-five Thousand Dollars (\$25,000) or two and one-half per cent (2 1/2%) of its gross assets, whichever is greater, but no association shall be required to have an amount of such stock with a value on its books of more than Two Hundred and Fifty Thousand Dollars (\$250,000). Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part any such stock heretofore issued when such associations are authorized to do so by a majority vote at any annual meeting of its members, or any special meeting of members called for such purpose; provided, that the basis of such retirement shall have been first approved by the Commissioner and consent to such retirement upon the part of the Federal Savings and Loan Insurance Corporation has been filed in writing with the Commission."

SECTION 4. Section 2.07, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.07. HEARINGS ON CHARTER APPLICATIONS. When a proper application for a charter has been filed, the Commissioner shall cause public notice of such application to be given and give any interested party an opportunity to appear, present evidence and be heard for or against such application. The

hearing shall be held before a hearing officer designated by the Commissioner. The hearing officer shall file a report on the hearing with the Commissioner. The report must contain findings of fact on each condition set out by Section 2.08 of this Act and the facts, received as evidence at the hearing, on which those findings are based."

SECTION 5. Section 11.05, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 11.05. FEES. The amount of the fees to be charged by the Commissioner for supervision and examination of associations, filing of applications and other documents and for other services performed by the Commissioner and his office and the time and manner of payment thereof shall be fixed by rule and regulation adopted by the Commissioner and the Savings [Building] and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes) [House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961]. All fees collected by the Commissioner shall be deposited and used in accordance with Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes) [retained by him and expended only for the expenses of the Savings and Loan Department]."

SECTION 6. Section 11.20, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 11.20. [SAVINGS AND LOAN SECTION TO ADOPT RULES AND REGULATIONS FOR REPORTING] CHANGE OF CONTROL OF ASSOCIATIONS. (a) No person may acquire any voting security of a savings and loan association or of any corporation or other entity owning voting securities of a savings and loan association if, after the acquisition, the person would own or possess the power to vote 25 percent or more of the voting securities of the association unless an application is filed with the commissioner for his review of the proposed transaction and for his action, if any, as provided by this section.

"(b) The application must be on a form prescribed by the commissioner and must be made under oath. The application must, except to the extent expressly waived by the commissioner, contain the following information:

"(1) the identity, personal history, business background and experience, and financial condition of each person by whom or on whose behalf the acquisition is to be made, including a description of the managerial resources and future prospects of each acquiring party and a description of any material pending legal or administrative proceedings in which he is a party;

"(2) the terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

"(3) the identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and arrangements, agreements, or understandings with those persons;

"(4) any plans or proposals which any acquiring party making the acquisition may have to liquidate the association, to sell its assets or merge it with any company, or to make any other major changes in its business or corporate structure or management;

"(5) the terms and conditions of any offer, invitation, agreement, or arrangement under which any voting security will be acquired and any contract affecting that security or its financing after it is acquired; and

"(6) other information that the commissioner by rule requires to be furnished in an application as well as any information that the commissioner orders to be included in the particular application being filed.

"(c) The applicant shall pay the appropriate filing fee when he files the application. A person proposing to acquire voting securities subject to this section includes an individual, two or more individuals acting in concert, any type of partnership, corporation, syndicate, trust, or any other organization, or any combination of the foregoing, and the information required by the commissioner may be required of each member of the group, as directed by the commissioner. Information obtained by the commissioner under this section is confidential and may not be disclosed by the commissioner or any officer or employee of the Savings and Loan Department, except that the commissioner may in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States and to the best interest of the public, divulge information to any department, agency, or instrumentality of the state or federal government, and provided that notice of the application, its date of filing, and the identity of all parties to the application shall be submitted to the Texas Register by the commissioner on receipt of the application and shall be published in the next issue of the Texas Register following the date the information is received.

"(d) The commissioner shall issue an order denying an application if he finds that:

"(1) the acquisition would substantially lessen competition or would in any manner be in restraint of trade and would result in a monopoly or would be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the savings and loan industry in any part of the state, unless he also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served and that the proposed acquisition is not in violation of any law of this state or the United States;

"(2) the poor financial condition of any acquiring party might jeopardize the financial stability of the association being acquired;

"(3) plans or proposals to liquidate or sell the association or its assets are not in the best interest of the association;

"(4) the experience, ability, standing, competence, trustworthiness, or integrity of the applicant is such that the acquisition would not be in the best interest of the association;

"(5) the association will not be solvent, have adequate capital structure, or be in compliance with the laws of this state after the acquisition;

"(6) the applicant has failed to furnish all of the information pertinent to the application reasonably requested by the commissioner; or

"(7) the applicant is not acting in good faith.

"(e) If an application filed under this section is not denied by the commissioner within 60 days after it is filed, the transaction may be consummated. The commissioner may, before the expiration of the 60-day period, give the applicant written notice that the application will not be denied, in which case the transaction may be consummated. Any agreement entered into by the applicants and the commissioner as a condition that the application will not be denied is enforceable against the association and is considered for all purposes an agreement under this Act.

"(f) If the commissioner issues an order denying an application, the applicant is entitled to a hearing if he requests one in writing not later than the 30th day after the day the application is filed or the 15th day after the day the application is denied, whichever date is later. After hearing the matter, the commissioner shall, within 30 days, enter a final order either affirming his denial or withdrawing his denial of the application. An applicant may not appeal the commissioner's denial of an application or order affirming his denial until a final order is entered. Any applicant shall have the right to appeal the final order only to the district court of Travis

County, Texas, against the Savings and Loan Commissioner of Texas as defendant. The action shall not be limited to questions of law and the substantial evidence rule shall not apply, but the action shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to the action may appeal to the appellate court having jurisdiction of the cause, and the appeal shall be at once returnable to the appellate court having jurisdiction of the cause and that action shall have precedence in that appellate court over all causes of a different character pending in that court. The commissioner shall not be required to give any appeal bond in any cause arising under this section. The filing of an appeal under this section shall not stay the order of the commissioner adverse to the applicant.

“(g) This section does not apply to a conversion, reorganization, merger, consolidation, or voluntary liquidation under Chapter 10, Texas Savings and Loan Act (Article 852a, Vernon’s Texas Civil Statutes).

“(h) No provision of this section shall excuse or diminish the notice requirements provided elsewhere in this Act.

“(i) No provision of this section shall be construed to prevent the commissioner from investigating, commenting upon, or seeking to enjoin or set aside any transfer of voting securities, whether the transfer is included in this section or not, if the commissioner deems the transfer to be against the public interest.

“(j) If it appears to the commissioner that any person has committed or is about to commit a violation of this section or any rule or order of the commissioner adopted under it, the attorney general on behalf of the commissioner may apply to the district court of Travis County for an order enjoining the violation and for any other equitable relief as the nature of the case may require.

“(k) Any person who wilfully and knowingly makes a materially false or misleading statement to the commissioner with respect to the information required by this section may be fined in an amount not exceeding \$2,000, or be confined in jail for a period not to exceed one year or both. This provision is cumulative of other remedies contained in this section.

“(l) The Savings and Loan Section by rule shall adopt a schedule of fees for the filing of applications and the holding of hearings. The schedule may be graduated so that those applications and hearings that are more difficult to review or administer will require a larger fee. An application fee is not refundable on denial of the application, but the commissioner may refund a portion of the fee if the application is withdrawn before he completes review of it. Fees collected under this section shall be deposited and used in accordance with Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon’s Texas Civil Statutes).

“[The Savings and Loan Section of the Finance Commission shall adopt and promulgate such rules and regulations as may be required to effectively cause the timely reporting to the Commissioner of any change in the control of an association occurring by reason of change in ownership of voting stock or holdings of voting rights in the association. A report shall be required whenever any person, partnership, trust, or group of associated persons acquires, receives, or becomes holder of:

“[(a) 25 percent or more of the outstanding shares of any class of voting stock of an association or of the voting rights thereto;

“[(b) 25 percent or more of the outstanding voting rights of an association;
or

“[(c) any appointment, designation, or right of substitution with respect to 25 percent or more of the outstanding voting rights of the institution.]”

SECTION 7. The requirements under Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon’s Texas Civil Statutes), that the

Savings and Loan Commissioner develop an intraagency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of that article that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

SECTION 8. Section 11.15, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is repealed.

SECTION 9. The Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes) is amended by adding Section 11.21 to read as follows:

"Section 11.21. APPLICABILITY OF CHAPTER 4, BUSINESS & COMMERCE CODE. An association shall be subject to and shall have the benefit of the provisions of Chapter 4 of the Business & Commerce Code with respect to all items paid, collected, settled, negotiated, or otherwise handled for customers of the association."

SECTION 10. Section 5.16, Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5.16. ENLARGEMENT OF POWERS. Any provisions of this Act to the contrary notwithstanding, any association may make any loan or investment, perform any function, or engage in any activity which such association could make were it incorporated and operating as a Federal association domiciled in this State."

SECTION 11. The Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes) is amended by adding the following section:

"Section 2.15. INCORPORATION TO TAKE OVER BUSINESS OF AN EXISTING ASSOCIATION. (a) Application for a charter for a savings and loan association for the sole purpose of purchasing the assets, assuming the liabilities (other than its liability to stockholders as such) and continuing the business of any association deemed by the Commissioner to be in an unsafe condition (hereinafter referred to as the Reorganizing Association) may be made to the Commissioner.

"(b) The application for such a charter shall consist of such data and information as the Commissioner may require, or that may be required by, duly promulgated rules and regulations of the Commissioner and the Savings and Loan Section of the Finance Commission of Texas. The capitalization of such an association shall be in an amount set by the Commissioner sufficient to carry out the purposes for which the charter is requested.

"(c) The provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) shall not apply to such an application.

"(d) If the Commissioner finds that the business of the Reorganizing Association can be effectively continued under the proposed charter, that the reorganization is in the best interest of the savers, depositors, creditors, and stockholders, if any, of the Reorganizing Association, and the public in general, he shall state his findings in writing and issue under his official seal, a certificate of incorporation, whereupon the proposed association shall be a corporate body, and a continuation of the Reorganizing Association subject to all its liabilities, obligations, duties, and relations, save and except its liability to stockholders as such, and may exercise all the powers of a savings and loan association under the laws of this state."

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1983.

(b) Section 1 of this Act, to the extent that it relates to the deposit of money in the Savings and Loan Department expense fund and to the use of money in that fund, takes effect September 1, 1985. All funds in the custody of the Savings and Loan Commissioner or the Savings and Loan Department that are subject to Section (h), Article 5, Chapter II, The Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), on September 1, 1985, shall be transferred to the

state treasurer on that date for deposit to the credit of the Savings and Loan Department expense fund.

SECTION 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Blake submitted the following report for the Committee on Administration:

H.C.R. 251
H.C.R. 250
H.C.R. 233
H.C.R. 230
H.C.R. 229
H.C.R. 221
S.C.R. 136
S.C.R. 133
H.B. 2340
H.C.R. 236
H.C.R. 268
H.C.R. 99
H.C.R. 259
H.C.R. 248
H.C.R. 198
H.C.R. 122
H.C.R. 73
H.C.R. 256
H.C.R. 258
S.R. 691
S.R. 628
S.R. 623
S.C.R. 114

BILL AND RESOLUTIONS ORDERED NOT PRINTED

On motion of Senator Blake and by unanimous consent, the following bill and resolutions were ordered not printed:

H.C.R. 251
H.C.R. 250
H.C.R. 233
H.C.R. 230
H.C.R. 229
H.C.R. 221
S.C.R. 136
S.C.R. 133
H.B. 2340
H.C.R. 236
H.C.R. 268
H.C.R. 99
H.C.R. 259

H.C.R. 248

H.C.R. 198

H.C.R. 122

H.C.R. 73

H.C.R. 256

H.C.R. 258

(Senator Montford in Chair)

HOUSE BILL 521 ON SECOND READING

The Senate resumed consideration of pending business, the same being **H.B. 521** on its second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

MESSAGE FROM THE HOUSE

House Chamber

May 27, 1983

HONORABLE W. P. HOBBY PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 275, Reestablishing the Select Committee on Public Education.

The House Conferees on **H.B. 1038** were discharged and the House concurred in Senate amendments to **H.B. 1038** by a non-record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 448**. House Conferees: Criss, Chairman; Watson, B. Barton, A. Moreno, Clemons.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 216**. House Conferees: Danburg, Chairman; El Franco Lee, Connelly, B. Gibson, G. Hill.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 151**. House Conferees: C. Evans, Chairman; Coody, Wallace, Russell, Bomer.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 385**. House Conferees: Madla, Chairman; Oliver, Tejada, Wright, DeLay.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 106**. House Conferees: C. Evans, Chairman; Coody, Bomer, Wolens, S. Thompson.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 960**. House Conferees: C. Evans, Chairman; Keller, Pennington, Shaw, Rudd.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 705**. House Conferees: Colbert, Chairman; Hackney, Green, Wallace, Shaw.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 315**. House Conferees: C. Evans, Chairman; Pierce, Luna, Cain, Millsap.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 255**. House Conferees: Simpson, Chairman; Valles, Don Lee, Staniswalis, Polk.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(President in Chair)

HOUSE BILL 521 ON SECOND READING

The Senate resumed consideration of the pending business, same being the passage of **H.B. 521** on second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

Senator Uribe moved that **H.B. 521** be passed to third reading.

The motion prevailed by the following vote: Yeas 16, Nays 11.

Yeas: Blake, Brooks, Doggett, Edwards, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Parmer, Santiesteban, Truan, Uribe, Vale, Williams.

Nays: Brown, Farabee, Glasgow, Howard, Jones, Leedom, Montford, Sarpalius, Sharp, Sims, Traeger.

Absent: Caperton, Parker, Washington, Whitmire.

MEMORIAL RESOLUTIONS

S.R. 704 - By Jones: Memorial resolution for Chief Warrant 3 Officer Robert R. McDonald.

S.R. 705 - By Brown: Memorial resolution for Alfred R. Neumann.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 158 - (Doggett): Commending Elspeth Rostow, Dean of the LBJ School of Public Affairs.

H.C.R. 267 - (Washington): Honoring Arthur M. Gaines, Jr.

S.R. 701 - By Blake: Expressing gratitude to the men of the 761st Tank Battalion of World War II.

S.R. 702 - By Truan: Endorsing the program of tribute to Gus Garcia.

S.R. 703 - By Glasgow: Extending welcome to the 7th grade students from Strawn ISD.

S.R. 707 - By Doggett: Extending welcome to Harley DeVilbiss, Honorary Page for the Day.

S.R. 708 - By Doggett: Extending welcome to David Work, Honorary Page for the Day.

S.R. 709 - By Doggett: Extending welcome to Ricky Cole, Honorary Page for the Day.

S.R. 710 - By Doggett: Extending welcome to Chris Kelly, Honorary Page for the Day.

S.R. 711 - By Doggett: Extending welcome to David Williams, Honorary Page for the Day.

S.R. 712 - By Doggett: Extending welcome to Kim Henley.

S.R. 713 - By Doggett: Extending welcome to Maggie Ellis, Honorary Page for the Day.

S.R. 714 - By Doggett: Extending welcome to Deanna Quick, Honorary Page for the Day.

S.R. 715 - By Doggett: Extending welcome to Emily Turner, Honorary Page for the Day.

S.R. 716 - By Doggett: Extending welcome to Joey Walker, Honorary Page for the Day.

S.R. 717 - By Brooks: Extending welcome to Ms. Sara Ehrman of the American Israeli Public Affairs Committee.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 12:58 o'clock a.m. adjourned until 10:00 o'clock a.m. today.

APPENDIX

**Sent to Governor
(May 27, 1983)**

S.B. 232

**Filed Without Signature of Governor
(May 27, 1983)**

**H.C.R. 100
H.C.R. 159
H.C.R. 173
H.C.R. 174
H.C.R. 197**

SEVENTY-SEVENTH DAY (Saturday, May 28, 1983)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

Senator John Sharp offered the invocation.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.